***United States Court of Appeals***

***for the Second Circuit***

# APPENDIX

75-6047

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

B

P/S

Docket No. 75-6047

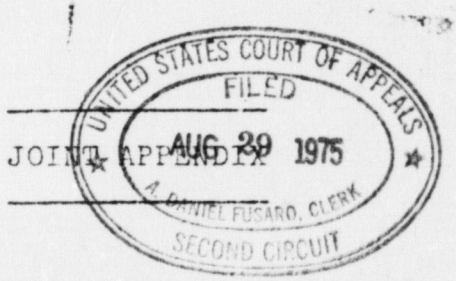
MARIA A. EISENHAUER, on her own behalf and on behalf of her children, FRANCIS X. EISENHAUER and BRIAN F. EISENHAUER,

Plaintiff-Appellant

-against-

CASPAR WEINBERGER, SECRETARY OF HEALTH EDUCATION, and WELFARE,

Defendant-Appellee




JOINT APPENDIX

David G. Trager
U.S. Attorney
J. Christopher Jensen
Asst. U.S. Attorney
225 Cadmen Pl. East
Brooklyn, New York

Attorney for Appellee

Jonathan A. Weiss
Philip M. Gassel
Legal Services for the Elderly Poor
2095 Broadway - Suite 304
New York, New York 10023
212 - 595-1340

Attorneys for Appellant

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Maria A. Eisenhauer, Claimant

Francis E. Eisenhauer, Wage Earner (Deceased)

Account Number 130-18-7297

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Marie A. Eisenhauer (Claimant) 130-18-7297 (Social Security Number) 1

Francis E. Eisenhauer (Wage Earner) (Leave blank if same as above)

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| 5. | Request for Reconsideration filed by the Claimant on 7/11/72. | 1 | 108 |
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| 8. | Certificate of Baptism of Francis Eisenhauer, Wage Earner, showing date of birth as 2/24/24. | 1 | 117 |
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Marie A. Eisenhauer — 130-18-7297 (Social Security Number)

Francis E. Eisenhauer

## EXHIBITS

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| 17. | Application for Lump-Sum Death Payment filed by Sonja S. R. Eisenhauer on 9/23/70. | 4 | 159-162 |
| 18. | Application for Surviving Child's Insurance Benefits filed by Sonja S. R. Eisenhauer on 9/23/70 on behalf of Brian Eisenhauer, Francis X. Eisenhauer, Francis E. Eisenhauer, Sonja L. Eisenhauer and Ursula M. Eisenhauer. | 4 | 163-166 |
| 19. | Application for Surviving Child's Insurance Benefits filed by Sonja S. R. Eisenhauer on 4/28/72 on behalf of Monika Radauscher, Andreas Radauscher, Erich Radauscher and Wilhelm Radauscher. | 4 | 167-170 |
| 20. | Certificate of Marriage, State of Maryland for Francis E. Eisenhauer and Sonja S. Radauscher, dated 8/14/69. | 1 | 171 |
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Marie A. Eisenhauer (Claimant) 130-18-7297 (Social Security Number)

Francis E. Eisenhauer

## EXHIBITS

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| 30. | Certificate of Social Insurance Award to Sonja S. Eisenhauer for children of F. E. Eisenhauer dated 5/19/72. | 1 | 194 |
| 31. | Certificate of Social Insurance Award to Sonja S. Eisenhauer for children of F. E. Eisenhauer dated 5/19/72. | 1 | 195 |
| 32. | Letter from the Social Security Administration to Mrs. Sonja Eisenhauer dated 5/23/72. | 1 | 196 |
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| 33. | Copy of Divorce granted to Mrs. Sonja Radauscher and Mr. Andreas Radauscher in Juarez, Mexico, dated 3/7/66. | 7 | 197-203 |
| 34. | Copy of Agreement between Louise Eisenhauer, Widow and Sonja Radauscher Eisenhauer, dated 5/2/67. | 5 | 204-208 |
| 35. | Copy of Application for Marriage License for Francis E. Eisenhauer and Sonja S. Radauscher filed in Elkton, Maryland on 8/14/69. | 2 | 209-210 |

Marie A. Eisenhauer
(Claimant)

130-18-7297
(Social Security Number)

Francis E. Eisenhauer
(Wage Earner) (Leave blank if same as above)

## EXHIBITS

| EXHIBIT NO | DESCRIPTION | NO. OF PAGES | COURT TRANSCRIPT PAGE NO. |
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| | RECEIVED SUBSEQUENT TO HEARING | | |
| 36. | Letter from the Claimant's Attorney, dated 7/11/73, forwarding Memorandum of Law, together with the additional exhibits mentioned in that letter. | 13 | 211-223 |

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SOCIAL SECURITY ADMINISTRATION

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REFER TO: IHA-2
130-18-7297

MAR

ORDER OF APPEALS COUNCIL FURTHER EXTENDING TIME
TO FILE CIVIL ACTION

Mrs. Marie A. Eisenhauser
43 Birchwood Drive
New Hyde Park, New York 11040

Dear Mrs. Eisenhauser:

In response to your letter dated March 19, 1974, requesting a further extension of time within which to commence a civil action in the United States District Court to review the decision of the administrative law judge dated July 25, 1973, said time hereby is extended to and including Friday, May 31, 1974.

Sincerely yours,

Norman S. Kerns
Member, Appeals Council

43 Birchwood Drive
New Hyde Park N.Y. 11040
March 19, 1974

Mr. Norman Kearns
Social Security Administration
Appeals Council
Box 2518
Washington, D.C. 20013

Dear Mr. Kearns:

Please refer To: HA:C
130-18-7297
(Francis E. Eisenhauer)

This letter refers to my phone conversation with your office representative, today.

Your letter of Jan. 23rd, 1974, granted an extension of time to April 1st, 1974, in which a civil suit was to be filed for judicial review. This concerns my disability claim. (reduced

Social Security benefits for my sons and myself.

I have tried desperately to obtain legal assistance, without much success.

I was referred to the following office by one Legal Assist. office since my sons and I are on a poverty level.

Legal Services For The Elderly Poor
2095 Broadway, Suite 304
New York, New York, 10023

Mr. Jonathan Weiss
Director

Phone: 212 - 595 - 1340

After discussing the case with Mr. Weiss I learned that he is interested in pursuing the matter. There are several theories he needs to explore.

3.

Mr. Weiss requested that I telephone your office immediately, which I did today.

Another extension is mandatory, since he needs the complete records, which have not yet been sent from Legal Assist. office.

I believe I have made an important contact and will now be able to exercise my right to file suit for judicial review.

The matter is once again in your hands, in the granting of one more extension of time. There will be no more requests!

Please give this your utmost consideration, not just for myself, but moreso for my two sons. Thank you.

Very truly yours,

Maria A. Eisenhauer

514-741-2945

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

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BUREAU OF
HEARINGS AND APPEALS

REFER TO HA:C
130-18-7297

ORDER OF APPEALS COUNCIL EXTENDING TIME TO FILE CIVIL ACTION

Mrs. Marie A. Eisenhauser
43 Birchwood Drive
New Hyde Park, New York 11040

Dear Mrs. Eisenhauer:

Pursuant to your recent request, the time within which a civil action may be filed for review of the decision of the administrative law judge dated July 25, 1973 in your disability claim, hereby is extended to and including, Monday, April 1, 1974. We trust that this will afford ample opportunity for you because it is unlikely, absent most compelling reasons, that a further extension would be authorized.

Sincerely yours,

Norman S. Kerns
Member, Appeals Council

40 Birchwood Drive
New Hyde Park N.Y. 11040
January 18, 1974

Mr. Norman Kearns
Department of H.E.+W.
Social Security Administration
Appeals Council - Box 2518
Washington, D.C. 20013

Dear Mr. Kearns: Re: E. E. Eisenhauer
130-18-7297

This letter is in reference to our telephone conversation today.

It concerns my appeal for an extension of time in order to properly file a Civil suit in Supreme Court. This is in regard to my two sons' and my reduced Social Security benefits.

Since I cannot possibly continue with my present attorney due to huge fees, my only other alternative is "Legal Aid".

I have discussed the matter with a "Legal Aid" representative, upon receiving an appointment.

I was informed that this case needs much investigation and will be time-consuming.

Since the time limit expires on January 30th of 1974 (less than two weeks away) the extension of time is crucial.

Of course, if there is even the remotest chance to present new evidence, thus eliminating a court procedure it would be most gratifying.

Otherwise I will have to seek "justice" in the court. It's been a very long and trying ordeal but we haven't given up hope of recovering our full maximum benefits.

The other children involved, were denied benefits originally in 1970. My sons and I received maximum benefits for almost two years. Then the girls letter was sent to New Jersey district office in 1972.

Judging from girl's file at heading office in Smithtown L.I. N.Y. last May, 1973, there were inaccuracies.



An error in payment was made to gal on behalf of her seven children. A follow-up letter was sent informing gal of error. Over-payment was in excess of $1,000.00. Perhaps there were other errors.

OG is a human failing!

I will trust your judgment, regarding extension of time I have requested.

You have shown compassion and understanding, by allowing me the privilege of writing to You. Perhaps when all is hopefully resolved, my faith in "justice" will be restored.

Thank you sincerely!

Very Truly Yours,

Maria A. Eisenhauer

516-
741-2945

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P.O. BOX 2518, WASHINGTON, D.C. 20013

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BUREAU OF
HEARINGS AND APPEALS

REFER TO: IHA-2
130-18-7297

NOV 30 1973

ACTION OF APPEALS COUNCIL ON REQUEST FOR REVIEW

Mrs. Maria A. Eisenhauer
43 Birchwood Drive
New Hyde Park, New York 11040

Dear Mrs. Eisenhauer:

Your request for review of the administrative law judge's decision has been carefully considered by the Appeals Council. The Council's consideration of your request has included all the evidence in your case, the law and regulations applicable to your claim, the evaluation of the facts and the reasoning in this decision, and your reasons for believing your claim should be allowed.

The Appeals Council has concluded that this decision is correct. Further action by the Council would not, therefore, result in any change which would be of advantage to you. Accordingly, the administrative law judge's decision stands as the final decision of the Secretary in your case.

If you desire a review of the decision by a court, you may commence a civil action in the district court of the United States in the judicial district in which you reside within sixty (60) days from this date. See section 205(g) of the Social Security Act, as amended (section 405(g), Title 42, United States Code). If such action is commenced, the Secretary of Health, Education, and Welfare is the proper defendant.

Sincerely yours,

Norman S. Kerns
Member, Appeals Council

cc:
James P. Duffy, Esq.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
P O BOX 2518, WASHINGTON, D C 20013

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BUREAU OF
HEARINGS AND APPEALS

REFER TO: HA:C
130-18-7297

Mrs. Matia A. Risenhauer
43 Birchwood Drive
New Hyde Park, New York 11040

Dear Mrs. Risenhauer:

We have received the request for review filed in connection with your claim for benefits. Because of the large number of requests for review now pending before the Appeals Council, there may be some delay before your case is reached.

We regret any inconvenience that this delay may cause, and we will act on your request as soon as possible.

Sincerely yours,

Norman S. Kerns
Member, Appeals Council

cc:
DO, Minoela, New York

cc:
James P. Duffy, Esquire
Great Neck, New York 11021

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

# REQUEST FOR REVIEW OF HEARING DECISION/ORDER

*Take or mail original and all copies to your local social security office.*

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| | |
|---|---|
| CLAIMANT Marie A. Eisenhauer on her own behalf and on behalf of Francis and Brian F. Eisenhauer, children of the deceased wage earner | CLAIM FOR<br>☐ Entitlement to Disability Benefits<br>☐ Continuance of Disability Benefits<br>☒ Other |
| WAGE EARNER (Leave blank if same as above.)<br>Francis E. Eisenhauer | |
| SOCIAL SECURITY NUMBER<br>130-18-7297 | Mother's Insurance Benefits and Child's Insurance Benefits. (Specify type claim) |

I disagree with the action taken on the above claim and request that the Appeals Council, Bureau of Hearings and Appeals, review it. My reasons for disagreement are:

Attorney's letter dated September 11, 1973.

Attach to this form, or forward within 10 days to the Appeals Council at the address shown below, any evidence you wish to submit.

Signed by: (Either the claimant or representative should sign - Enter addresses for both)

| | |
|---|---|
| SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE<br>Mr. James P. Duffy, III, Esq. ☒ ATTORNEY ☐ NON-ATTORNEY | CLAIMANT'S SIGNATURE<br>Mrs. Marie A. Eisenhauer |
| STREET ADDRESS<br>150 Great Neck Road | STREET ADDRESS<br>43 Birchwood Drive |
| CITY, STATE, AND ZIP CODE<br>Great Neck, New York 11021 | CITY, STATE, AND ZIP CODE<br>New Hyde Park, New York 11040 |
| TELEPHONE NUMBER | DATE<br>Claimant should not fill in below this line |
| | TELEPHONE NUMBER |

TO BE COMPLETED BY SOCIAL SECURITY ADMINISTRATION

Is this request filed within 60 days of the administrative law judge's action? ☒ Yes ☐ No

If "No" is checked: (1) attach claimant's explanation for delay; (2) attach any pertinent letter, material or information in the district office.

## ACKNOWLEDGMENT OF REQUEST FOR REVIEW OF HEARING DECISION/ORDER

Request for Review of Hearing Decision/Order in this case was filed on the date shown and at the place indicated.

The APPEALS COUNCIL will notify you of its action on your request.

Date request for review was filed
September 17, 1973

Place where request for review was filed
Washington, D.C.

For the Social Security Administration

BY (Signature) Gloria Steele

(Title) Clerk-typist

Appeals Council
Bureau of Hearings and Appeals, SSA
P.O. Box 2518
Washington, D.C. 20013

(Street Address) P. O. Box 2518

(City) Washington, (State) D.C. (ZIP Code) 20013

Form HA-520
(9-72)

APPEALS COUNCIL

SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

MINEOLA, N.Y.
MINEOLA, N.Y.
SEP 12 1973
21136 DISTRICT
16

# REQUEST FOR REVIEW OF HEARING DECISION/ORDER

*Take or mail original and all copies to your local social security office.*

CLAIMANT
Lucia A. Eisenhauer
WAGE EARNER (Leave blank if same as above)
Francis E. Eisenhauer, deceased
SOCIAL SECURITY NUMBER
130-18-7297
SPOUSE'S NAME AND SOCIAL SECURITY NUMBER
(Complete ONLY in Supplemental Security Income Case)

CLAIM FOR
- [X] Entitlement to Disability Benefits
- [ ] Continuance of Disability Benefits
- [ ] Other (Specify) _____
- [ ] Supplemental Security Income
- [ ] Continuance of Supplemental Security Income

I disagree with the action taken on the above claim and request review of such action by the Appeals Council, of the Bureau of Hearings and Appeals. My reasons for disagreement are:

See copy of letter attached

Attach to this form, or forward within 10 days to the Appeals Council at the address checked below, any evidence you wish to submit.

Signed by: (Either the claimant or representative should sign - Enter addresses for both)

| SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE | CLAIMANT'S SIGNATURE |
|---|---|
| Berg and Duffy [X] ATTORNEY [ ] NON-ATTORNEY | |
| STREET ADDRESS | STREET ADDRESS |
| Messrs. Berg and Duffy<br>[illegible] Great Neck Road | 43 Birchwood Drive |
| CITY, STATE, AND ZIP CODE | CITY, STATE, AND ZIP CODE |
| Great Neck, New York 11021 | New Hyde Park, New York 11040 |
| TELEPHONE NUMBER | TELEPHONE NUMBER |
| (516) 466-4040 | (516) 741-2945 |
| DATE: September 11, 1973 (Claimant should not fill in below this line) | |

TO BE COMPLETED BY SOCIAL SECURITY ADMINISTRATION

Is this request filed timely? [X] Yes [ ] No

If "No" is checked: (1) attach claimant's explanation for delay; (2) attach any pertinent letter, material or information in Social Security Office.

## ACKNOWLEDGMENT OF REQUEST FOR REVIEW OF HEARING DECISION/ORDER

Request for Review of Hearing Decision/Order in this case was filed on 9/12/73 at Mineola NY

The APPEALS COUNCIL will notify you of its action on your request.

For the Social Security Administration

BY [illegible] (Signature)
Station Plaza No. (Title)
Mineola NY 11501 (Street Address) (City) (State) (ZIP Code)

[X] Appeals Council
Bureau of Hearings and Appeals, SSA
P.O. Box 2518
Washington, D.C. 20013

[ ] Appeals Council
Bureau of Hearings and Appeals, SSA

Form HA-520
(9-73)

APPEALS COUNCIL

LAW OFFICES
BERG AND DUFFY
150 GREAT NECK ROAD
GREAT NECK, NEW YORK 11021

ALFRED S BERG
JAMES P. DUFFY, III

TELEPHONE:
(516) 466-4040

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September 11, 1973

Department of Health, Education, & Welfare
Social Security Administration
Appeals Council
Bureau of Hearings and Appeals
Post Office Box 2518
Washington, D. C. 20013

Maria Eisenhauer - Children's Social Security Benefits Wage Earner's Social Security No. 130-18-7297

Dear Sirs:

On behalf of our client, claimant Maria A. Eisenhauer of 43 Birchwood Drive, New Hyde Park, New York 11040, we request that the Appeals Council review the decision dated July 25, 1973, of Administrative Law Judge Maurice C. Rosenzweig, a copy of which is annexed hereto.

Claimant seeks review of the whole of Judge Rosenzweig's decision on the grounds that it is incorrect in both fact and law. On the important question of the wage earner's domicile and residence at the time of his death, Judge Rosenzweig appears to have disregarded totally a judgment of the Supreme Court of the State of New York entered in an action to which Sonja Radauscher was a party and also sworn statements of Sonja Radauscher that stand in sharp contrast to the Judge's findings of fact.

Additionally, the Judge incorrectly states the import of 42 U.S.C.A. §402(d)(1) inasmuch as he appears to ignore the requirements of dependency. See the hearing decision at p 2. Additionally, there is no finding of fact that

LAW OFFICES
BERG AND DUFFY

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any of Sonja Radauscher's children were dependent upon wage earner as is required by 42 U.S.C.A. §402.

While we do not intend this document to be a brief or to raise all of the points that should properly be reviewed, we nevertheless wish to show what we feel to be substantial merit to claimant's position. Accordingly, if review is entertained, we request, pursuant to 20 CFR §404.948, a reasonable opportunity to file briefs and other written statements of allegations as to fact and law.

Very truly yours,

James Berg Duffy

JPD:dth
ccs: Department of Health, Education, & Welfare
Mineola Office
Judge Maurice C. Rosenzweig
CERTIFIED MAIL RETURN RECEIPT REQUESTED

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

19

To: Mrs. Marie A. Eisenhauer
43 Birchwood Drive
New Hyde Park, N.Y. 11040

**NOTICE OF DECISION** **PLEASE READ CAREFULLY**

If you disagree, in whole or in part, with the enclosed decision you may request the Appeals Council to review it. However, your request for review must be filed within 60 days following the date shown below.

You, or your representative, may file the request for review at the nearest office of the Social Security Administration, or you may file the request for review with the hearing office or with the Appeals Council.

Unless you file a timely request for review by the Appeals Council, you may not obtain a court review of your case under sections 205 (g) and 1869 (b) of the Social Security Act.

This notice and enclosed copy of hearing decision mailed to the claimant on

July 25, 1973

CC:

Name and Address of Representative:

James P. Duffy, III, Esq.
150 Great Neck Road
Great Neck, N.Y. 11021

Form HA-502-3
(6-72)

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

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# HEARING EXAMINER'S DECISION

| In the case of | Claim for |
|---|---|
| Marie A. Eisenhauer on her own behalf and on behalf of Francis X. and Brian F. Eisenhauer, children of the deceased wage earner. (Claimant) | Mother's Insurance Benefits and Child's Insurance Benefits |
| Francis E. Eisenhauer, deceased (Wage Earner) (Leave blank if same as above) | 130-18-7297 (Social Security Number) |

This claim is before the undersigned upon a request for a hearing filed on November 14, 1972 by Marie A. Eisenhauer, hereinafter called Marie, who disagrees with the determination of the New York Payment Center that Monika, Andreas, Erich and Wilhelm Radauscher and Francis E., Sonja L. and Ursula M. Eisenhauer, all children of Sonja S. Eisenhauer, hereinafter called Sonja, are entitled to child's insurance benefits based upon the social security account of the deceased wage earner, Francis E. Eisenhauer. The hearing was held at Smithtown, New York on May 18, 1973. Marie appeared and was represented at the hearing by her attorney James P. Duffy, Esq.

Francis E. Eisenhauer, the wage earner, died on June 9, 1970. On June 29, 1970 Marie filed an application on her own behalf for mother's insurance benefits and on behalf of her children Francis X. and Brian F. for child's insurance benefits, based upon the social security account of the deceased wage earner. The applications were granted and Marie was found to be entitled to mother's insurance benefits and the children, Francis X. and Brian F. were found to be entitled to child's insurance benefits, based upon the social security account of the deceased wage earner.

On September 23, 1970 Sonja filed an application on behalf of her children for child's insurance benefits, based upon the social security account of the deceased wage earner. As a result of that application, Sonja's children Monika, Andreas, Erich and Wilhelm Radauscher, as well as Francis E., Sonja L.

and Ursula M. Eisenhauer, were all found to be entitled to child's insurance benefits, based upon the social security account of the deceased wage earner. This finding resulted in a substantial reduction in the amount of the benefit payment payable to Marie and her children Francis X. and Brian F., based upon the same social security account and Marie was advised of that determination by means of a letter dated May 19, 1972. Upon Marie's request for reconsideration protesting the reduction in benefits to her and her children because of the payment of benefits to the children of Sonja, the New York Payment Center affirmed its determination and so advised the claimant by means of a letter dated August 11, 1972.

## STATEMENT OF ISSUES AND APPLICABLE LAW

The principle issue in this case is whether the children of Sonja, i.e., Monika, Andreas, Erich, and Wilhelm Radauscher, as well as Francis E., Sonja L. and Ursula M. Eisenhauer are entitled to child's insurance benefit payments based upon the social security account of the deceased wage earner. The specific issues are whether the above named children of Sonja are the children or step-children of the deceased wage earner, as those terms are defined for social security purposes.

Section 202(g)(1) of the Social Security Act; 42 USC 402(g)(1), in pertinent part states that the widow of an individual who died fully or currently insured is entitled to benefits if she has in her care a child of the deceased individual who is entitled to child's insurance benefits.

Section 202(d)(1) of the Social Security Act; 42 USC 402(d)(1), in pertinent part states that every child of an individual who died fully or currently insured is entitled to child's insurance benefits if an application has been filed by him or on his behalf.

Section 216(e) of the Social Security Act; 42 USC 416(e), in pertinent part defines the term "child" as the natural child or a step-child, who has been a step-child for not less than nine months immediately preceding the day on which the insured individual died. For purposes of the Social Security Act, the child will be deemed the step-child of an individual if the individual and the child's parent went through a marriage ceremony that resulted in a purported marriage between them, which would have been a valid marriage except for the existence of a legal impediment.

Section 203(a) of the Social Security Act; 42 USC 403(a), in pertinent part provides that whenever the total benefits to which individuals are entitled on a social security account exceed the amount of the family maximum, as provided in Section 215(a) of the Social Security Act; 42 USC 415(a), each individual's benefit will be proportionately reduced so that the family's maximum amount will not exceed the amount of the maximum fixed under Section 215(a).

Sections 205(a) and 205(b) of the Social Security Act; 42 USC 405(a) and 405(b), in pertinent part provide that the Social Security Administration shall make rules and regulations to regulate and provide for the nature and the weight of the proofs and the evidence needed to establish the right of an individual to benefits and to make findings of fact and decisions as to the rights of individuals applying for benefits.

The evidence of record, together with the list of exhibits which more fully identifies and describes the evidence of record, was examined by Marie and her attorney at the time of the hearing. During the course of the hearing and subsequent thereto, additional documentary evidence was submitted by Marie's attorney and has been made part of the record in this case. The undersigned has considered all of the evidence now of record, as well as the testimony adduced at the hearing, in arriving at this decision.

## SUMMARY OF THE RECORD

The following material facts are not in dispute and were stipulated by Marie's attorney:

1. Marie married the wage earner on January 13, 1951. 1/

2. Of the marriage between Marie and the wage earner there was born Francis X. on October 5, 1958 and Brian F. on January 13, 1955. 2/

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1/ Exhibit No. 10, page 1
2/ Exhibits No. 11 and 12

3. On September 7, 1965 Marie and the wage earner separated and thereafter did not live together. In her application for mother's insurance benefits Marie declared that the wage earner left their home on September 7, 1965 because of mental cruelty, abandonment and insufficient support. 3/

4. Subsequent to September 7, 1965 the wage earner and Sonja began living together. Sonja fixes the date that she and the wage earner began living together as April 1, 1966. 4/

5. On June 29, 1957 Sonja married Andreas Radauscher and that marriage terminated by means of a divorce on March 7, 1966. 5/

6. As a result of the marriage between Sonja and Andreas Radauscher there were four children, i.e., Monika born June 30, 1958, Andreas born November 7, 1959, Erich born February 15, 1961 and Wilhelm born on June 2, 1964. 6/

7. During the period in which Sonja and the wage earner lived together there were born three children - Francis E. born on July 27, 1966, Sonja L. born on February 26, 1969 and Ursula M. born on April 12, 1970. 7/

8. Counsel for Marie stipulated that the children Sonja L. and Ursula M., supra, are the children of Sonja and the deceased wage earner, but with reference to the child Francis E. born on July 27, 1966, i.e., conceived prior to the legal termination of Sonja's marriage to Andreas Radauscher, conceded only that Sonja was the mother of the said Francis E. Counsel contended that since Francis E. was born to Sonja while Sonja was legally married to Andreas Radauscher there is a very strong legal presumption that a child born in wedlock was sired by his legal father.

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3/ Exhibit No. 1, page 2
4/ Exhibit No. 29, page 1
5/ Exhibit No. 33
6/ Exhibits No. 24 through 27, inclusive
7/ Exhibits No. 21 through 23, inclusive

9. On August 14, 1969 Sonja and the wage earner obtained a marriage license and went through a ceremonial marriage at Elkton, Maryland. 8/

10. On June 9, 1970 the wage earner, while temporarily in the State of Rhode Island in connection with his business, died. 9/

The following facts were not agreed upon by stipulation but, in the opinion of the undersigned, are established by the evidence of record:

1. The claimant, prior to his death, was employed as an engineer by Gulton Industries Inc., 212 Durham Avenue, Metuchen, N.J. In addition, the claimant was a free-lance musician, as a result of which he supplemented his income.

2. During the calendar year 1969 the claimant earned $18,084.30 as salary paid to him by Gulton Industries Inc. and by reason of his employment as a musician earned an additional $3,964.10, represented by W-2 forms in various amounts attached to and made part of the wage earner's 1969 federal income tax return. 10/

3. Attached to and made part of the deceased wage earner's federal income tax return for the year 1969 were seven W-2 forms, each of them indicating the claimant's address as 100 Puha Road, S. Plainfield, N.J., i.e., the home owned by Sonja. 11/

## EVALUATION OF THE RECORD

The stipulated facts in this case establish that the deceased wage earner while legally married to Marie lived with Sonja and while they were living together Sonja gave birth to three children, i.e., Francis E., Sonja L. and Ursula M. Eisenhauer. In addition, as a result of her marriage to Andreas Radauscher which was terminated by divorce on March 7, 1966, Sonja gave birth to Monika, Andreas, Erich and Wilhelm Radauscher.

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8/ Exhibit No. 35, pages 1 and 2
9/ Exhibit No. 36, page 2
10/ Exhibit No. 36, pages 5 through 13
11/ Ibid

On August 14, 1969 Sonja and the wage earner went through a marriage ceremony resulting in a purported marriage between them, which but for a legal impediment, i.e., the fact that the wage earner was at the time legally married to Marie, would have been a valid marriage. By reason of that purported marriage, the children of Sonja and Andreas Radauscher, i.e., Monika, Andreas, Erich and Wilhelm became the step-children of the wage earner for social security purposes and therefore entitled to child's insurance benefits based upon his social security account. 12/ By virtue of the same purported marriage, the children Sonja L. and Ursula M. became children of the wage earner eligible for child's insurance benefits. 13/

The foregoing solves the status of all of the children of Sonja, with the exception of Francis E., born on July 27, 1966, i.e., conceived prior to the dissolution of her marriage to Andreas Radauscher. The attorney for Marie, the claimant herein, does not concede that the wage earner was the biological father of Francis E., preferring to cite the presumption in law that a child conceived during wedlock is presumed to be the child of the legally wedded parents. On the other hand, Sonja, in the birth certificate filed on behalf of her son Francis E. has stated that the wage earner was the biological father and this was not denied by the wage earner.

For purposes of this decision it is immaterial whether Francis E. Eisenhauer was biologically fathered by Andreas Radauscher or by the deceased wage earner. He would, in either event, be eligible for child's insurance benefits based upon the social security account of the wage earner, either as a step-child, as is Monika, Andreas, Erich and Wilhelm, or as the child of the wage earner, as is Sonja L. and Ursula M.

Accordingly, since no useful purpose would be served by resolving the issue which has been raised, that issue, being immaterial to a resolution of the rights of the parties herein, is reserved.

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12/ Section 216(e) of the Social Security Act, 42 USC 416(e), supra

13/ Section 216(h)(2)(B) of the Social Security Act, 42 USC 416(h)(2)(B)

Marie's attorney has submitted a memorandum supportive of Marie's contention that the children of Sonja are not entitled to child's insurance benefits based on the social security account of the deceased wage earner.

In that memorandum the claimant's attorney, despite having conceded at the hearing that the wage earner and Sonja did live together following his separation from Marie, contended that the wage earner and Sonja were not "living together", but that the relationship which existed "clearly establishes that Sonja was the wage earner's mistress, who would rendezvous with him from time to time, perhaps even for periods of several days between business trips, musical engagements, or when he was not otherwise involved and contradicts any possible contention that wage earner resided with Sonja and supported her seven children." 14/

The circumstances seized upon by Marie's counsel for this conclusion appears to be the fact that in applying for the marriage license on August 14, 1969, the wage earner swore that he resided at 6524 Metropolitan Avenue, Middle Village, N.Y. and not at 100 Puha Road., South Plainfield, N.J., the home owned and occupied by Sonja and her children. 15/ What Marie's counsel forgets to point out is that in the same application for a marriage license, made under the same oath, the wage earner stated that he had never been previously married. 16/

It would appear quite obvious that, in order to avoid any embarrassment, the wage earner when applying for a marriage license indicated that he lived separate and apart from Sonja and also declared that he had not previously been married. The wage earner, despite the fact that he knew he was married to Marie, had no hesitation in affirming the truth to the answers which he gave on the marriage license, thus indicating his regard for the sanctity of his oath.

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14/ Page 5 of the memorandum submitted by the claimant's counsel
15/ Exhibit No. 35, page 1
16/ Ibid

What Marie's attorney fails to note is that the wage earner's 1969 federal income tax return shows the wage earner's address as 100 Puha Road and that there were seven W-2 forms attached to that tax return showing the wage earner's home address as 100 Puha Road. The wage earner's body was shipped from Rhode Island to New Jersey for burial and the death certificate, until changed by court order, reflected the wage earner's residence as 100 Puha Road.

In addition, counsel has attempted to establish that the wage earner was not contributing to the support of Sonja's children at the time of his death by declaring, in his brief, that "presumably, wage earner was not in a position to accept too many burdens since he had support and other responsibilities toward the claimant, his lawful wife, and his two children by her." 17/ However, in the same memorandum counsel states that the wage earner did contribute toward the upkeep of Sonja's household, since he declares that the relationship between Sonja and the wage earner " * * * was an economic relationship for Sonja, who following her divorce from Andreas Radauscher, could not make ends meet without outside help; * * * " 18/

At the hearing it was pointed out to Marie and her counsel that the issue to be resolved herein was, in reality, a matter of law and the claimant's attorney was therefore given an opportunity to submit a memorandum of law to establish Marie's contention that Sonja's children are not entitled to child's insurance benefits based upon the social security account of the deceased wage earner. The memorandum submitted by the claimant's counsel cites but one case and that case deals not with the question of entitlement to social security benefits, but merely with the presumption that a child conceived in wedlock is presumed to be the child of the wedded parents. As already indicated, whether Francis E. is the child of Andreas Radauscher or of the wage earner herein is immaterial in this specific case and that issue is, specifically, not resolved by the undersigned.

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17/ Memorandum submitted by the claimant's counsel, page 6
18/ Ibid, pages 5 and 6

## FINDINGS OF FACT

After careful consideration and evaluation of the evidence of record the undersigned makes the following findings:

1. Marie A. Eisenhauer and Francis E. Eisenhauer, the deceased wage earner were married on January 13, 1951 and that marriage continued until the wage earner died on June 19, 1970.

2. As a result of the marriage between Marie A. Eisenhauer and Francis E. Eisenhauer there were two children born, i.e., Francis X. Eisenhauer and Brian F. Eisenhauer.

3. On June 29, 1957, Sonja Radauscher married Andreas Radauscher and that that marriage terminated by divorce on March 7, 1966.

4. That by reason of the marriage between Sonja and Andreas Radauscher there were four children born, i.e., Monika, Andreas, Erich and Wilhelm Radauscher.

5. That Sonja Radauscher, also known as Sonja Eisenhauer, and the wage earner began living together following the separation by the wage earner from his wife Marie on September 7, 1965 and that while they were living together three children were born, i.e., Francis E., Sonja L. and Ursula M. Eisenhauer.

6. On August 14, 1969 Sonja Radauscher, also known as Sonja Eisenhauer and the wage earner went through a marriage ceremony which would have resulted in a. valid marriage except for the existence of a legal impediment, i.e., the wage earner's undissolved marriage to Marie.

7. That by reason of this purported marriage, all of the children of Sonja Radauscher, also known as Sonja Eisenhauer, became eligible for child's insurance benefits based upon the social security account of the deceased wage earner, either by reason of being step-children of the deceased wage earner or children of the deceased wage earner, in accordance with the appropriate provisions of the Social Security Act.

8. The two children of Marie Eisenhauer and the seven children of Sonja Radauscher, also known as Sonja Eisenhauer, are entitled to share equally and proportionately in the maximum benefit payable as child insurance benefits, based upon the social security account of the deceased wage earner.

## DECISION

For all of the foregoing reasons it is the decision of the undersigned that Francis X. Eisenhauer, Brian F. Eisenhauer, Monika Radauscher, Andreas Radauscher, Erich Radauscher, Wilhelm Radauscher, Francis E. Eisenhauer, Sonja L. Eisenhauer and Ursula M. Eisenhauer are all children of the deceased wage earner, as that term is defined for social security purposes, and are entitled to share equally and proportionately in the child's insurance benefit payable upon the social security account of Francis E. Eisenhauer, the deceased wage earner.

Maurice C. Rosenzweig

Maurice C. Rosenzweig
Administrative Law Judge
Room 200, Tinker National Bank Bldg.
180 East Main Street
Smithtown, N.Y. 11787

Date:

Social Security Administration
Bureau of Hearings and Appeals

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In the Case of Maria A. Eisenhauer, Claimant, Francis E. Eisenhauer (Deceased), Wage Earner, Social Security Account #130-18-7297

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MEMORANDUM OF MARIA A. EISENHAUER IN SUPPORT

Claimant, Maria A. Eisenhauer, submits this memorandum in support of her appeal of the reconsideration determination of her children's insurance benefits on the record of wage earner, Francis E. Eisenhauer (Deceased), Social Security Number 130-18-7297.

## Nature of the Case

Claimant is the widow of wage earner, and there was a valid marriage between them at the time of wage earner's death. Claimant had two children by wage earner who have been adversely affected by the reconsideration determination dated August 11, 1972, of Bernard Levine, Chief, Reconsideration Branch.

Claimant and wage earner legally separated in 1966. Sometime thereafter, wage earner took a mistress, Sonja Eisenhauer ("Sonja") and apparently stayed with her from time to time. Claimant concedes that wage earner fathered two children by Sonja out of this relationship.

In 1969, wage earner and Sonja attempted a ceremonial marriage [illegible] ing valid marriage to claimant. By reason of the reconsidera-tion determination previously referred to and Sonja's attempt to go through an invalid ceremonial marriage with wage earner, Sonja's two children by wage earner, a child by Sonja whose paternity is at issue, and four children by Sonja out of a prior marriage, have been determined eligible to receive bene-fits on wage earner's record. Since claimant and her two children were receiving the maximum benefits available on wage earner's record, claimant's children's benefits had to abate to provide for Sonja's seven children, five of whom were not fathered by wage earner.

Wage Earner Died a Resident of and Domiciliary of New York

The documentary evidence clearly establishes that wage earner considered himself to be and was in fact a resident of the State of New York at the time of his death and that he was a domiciliary of New York at the time of his death.

Notwithstanding Sonja's claim that wage earner and she com-menced living together in April of 1966, see Exhibit No. 29 at p 1, more than three years later, on August 9, 1969, wage earner stated under oath that he resided at 65-24 Metropolitan Avenue,

Middle Village, New York. See Exhibit No. 35. Coincidentally, Sonja also signed Exhibit No. 35, also under oath, and stated that she resided at an address different from that of wage earner.

In addition, in an action in the New York State Supreme Court, County of Nassau, to which Sonja was a party, the Court determined that, at the time of his death, wage earner continued to reside at and was domiciled at 65-24 Metropolitan Avenue, Middle Village, New York. See Exhibit No. 16 at pp 11-13. Wage earner's death certificate, as amended, shows his "mailing address or residence" to be the Metropolitan Avenue address as well. See Exhibit I (exhibits in roman numerals refer to exhibits found in the Appendix submitted herewith).

Sonja's unsworn claim in Exhibit No. 29 stands in sharp contrast to her sworn statements in Exhibit No. 35 and her actions with respect to claimant's action for declaratory judgment that resulted in the judgment found at Exhibit No. 16 at pp 11-13.

Wage Earner Had a Limited Contact with Sonja's Residence

As can be seen from Exhibit No. 34, wage earner was not the owner of Sonja's residence at 100 Puha Road, South Plainfield, New Jersey, title to that property being in her name only. Furthermore, in an affidavit sworn to on June 8, 1973,

see Exhibit II, Sonja stated under oath as follows:

> "That she is the full fee simple absolute owner of the property and premises known as and by Street No. 100 Puha Road, South Plainfield, New Jersy, and that [wage earner] never had any interest whatever in said real property and premises.
>
> "That [wage earner] had no interest in any furniture, fixtures, furnishings or the contents of said house and premises, and that to the best of your deponent's knowledge [wage earner] had no assets known to her.
>
> "That your deponent is not in possession of any assets of [wage earner] nor does she have control over any assets of [wage earner] nor does she have any knowledge or information concerning any assets of [wage earner] of any nature, kind, form or substance..."

Sonja's concessions are significant and serve to demonstrate that wage earner had no substantial contacts with Sonja's residence and that, in fact, he never had any "interest in any furniture, fixtures, furnishings or the contents of [that residence]". In veiw of these limited contacts, there can be no inference that wage earner resided with Sonja even on a temporary or intermediate basis.

Wage Earner and Sonja Never Established a True Family Relationship

Sonja herself has characterized the relationship as "living together", see Exhibit 29 at p 1, rather than as a marriage, as husband and wife, or as a family. Exhibit 29 further indicates Sonja's conscious awareness that she and wage earner could never

marry until he was divorced from claimant which he never was.

Contrary to Sonja's suggestions, wage earner did not "reside" with Sonja, in the common sense of the word, at 100 Puha Road, the place where Sonja alleges she and wage earner "lived together". See Exhibit 29 at p 4. This concept of "living together" was so ephemeral that, as noted above, wage earner apparently had nothing of his own at the alleged place of "living together".

Additionally, wage earner's Federal Income Tax Return for 1969, Exhibit III, clearly indicates that he did not claim that he was married to Sonja even though it was filed approximately nine months after his invalid "marriage" to her. This expression of intent is significant since it occurred on May 22, 1970, approximately two weeks before wage earner died.

The weight of all the external circumstances clearly establishes that Sonja was wage earner's mistress who would rendezvous with him from time to time, and perhaps even for periods of several days, between his business trips, musical engagements, or when he was not otherwise involved and contradicts any possible contention that wage earner resided with Sonja and supported her seven children. The relationship was an economic relationship for Sonja who, following her divorce from Andreas Radauscher, could

not make ends meet without outside help; it was also a relationship of convenience for wage earner who had many of the benefits of being married without any of the associated burdens, except those he chose to accept. Presumably, wage earner was not in a position to accept too many burdens since he had support and other responsibilities towards claimant, his lawful wife, and his two children by her.

The substance of the relationship between wage earner and Sonja falls far short of the substantial family relationships envisioned by 42 U.S.C.A.§402(d)(4) and 20 C.F.R.§404.1113(a). "Living with" as that term is used in 42 U.S.C.A.§402(d)(4) means that:

> "...the parent and the child are sharing the same residence and that the parent is exercising...parental control and authority over the child."

The conclusion is inescapable, therefore, that none of Sonja's children, no matter who fathered them were "living with" wage earner either prior to his invalid "marriage" to Sonja, during the approximately ten months duration of that "marriage", or at the time of wage earner's death.

## The Radauscher Children Received Support from Their Natural Father and None From Wage Earner

Pursuant to the provisions of the divorce decree divorcing Sonja from her first husband, Andreas Radauscher, Mr. Radauscher was obligated to pay Sonja $70 per week. See Exhibit No. 33. Sonja acknowledges her receipt of these funds, See Exhibit No. 29 at p 5. It is uncontested, therefore, that Mr. Radauscher was providing for the support of his four children

by Sonja. There is no evidence from Sonja that wage earner was providing any support for the Radauscher children, and, even if so, Exhibit III shows that wage earner was not providing these children with any significant support since he did not claim them as deductions for Federal Income Tax purposes.

Francis Eugene Eisenhauer is the Natural Child of Andreas Radauscher

As can be seen from Exhibit No. 21, Francis Eugene Eisenhauer ("Eugene") must have been conceived at a time when Sonja was still legally married to her former husband, Andreas Radauscher. See also Exhibit No. 33. In addition, Sonja has acknowledged that she and wage earner did not begin living together until April of 1966, a period substantially after the time when conception must have occurred. See Exhibit No. 29 at p 1.

It is more than a conclusion, therefore, that Francis Eugene Eisenhauer is the natural child of Andreas Radauscher and that he bears wage earner's surname solely because he was born to Sonja at a time when she was "living with" wage earner. It is one of the strongest presumptions existing at law that a child conceived during the existence of a valid marriage is the issue of the parties to that marriage, here Sonja and Andreas Radauscher. See Commissioner of Public

Welfare of City of New York v Koehler, 284 New York 260 (1941). Sonja's substantial admission of wage earner's non access prior to April 1966 makes the presumption virtually conclusive as to him. At the very best, therefore, Eugene can only be wage earner's stepchild.

Eugene Was Not Dependent Upon Wage Earner

Wage earner's stepchild, Eugene, resided with his mother, Sonja, at a place different from wage earner's residence. There was no relationship between Eugene and wage earner or between Sonja and wage earner that permits the conclusion that Eugene was "living with" wage earner or vice versa. Sonja has offered no evidence that would support the conclusion that wage earner was providing at least one-half of Eugene's support. Accordingly, the requirements of 42 U.S.C.A.§402(d)(4) are not met with respect to him.

Sonja's Two Children By Wage Earner Were Not Dependent Upon Him

Sonja's two children by wage earner resided at a place different from wage earner's residence. There was no relationship between wage earner and these two children or between Sonja and wage earner that permits the conclusion that wage earner was "living with" them or vice versa. Sonja offered no evidence that would support the conclusion that wage earner was contributing to their support. Accordingly the requirements

of 42 U.S.C.A.§402(d)(3) are not met with respect to them. For the same reasons, even if Eugene were wage earner's natural child, Eugene would not meet the requirements of 42 U.S.C.A.§402(d)(3).

## Conclusion

For the foregoing reasons, none of Sonja's children by Andreas Radauscher are entitled to benefits on wage earner's record since they were not, in fact, dependent upon wage earner as required by 42 U.S.C.A.§402(d)(1)(C) nor are they deemed to be dependent upon wage earner by reason of 42 U.S.C.A.§402 (d)(4).

For the foregoing reasons, Francis Eugene Eisenhauer, who despite his last name, is not wage earner's child, is not entitled to benefits on wage earner's record since he was not, in fact, dependent upon wage earner as required by 42 U.S.C.A.§402(d)(1)(C) nor is he deemed to be dependent upon wage earner by reason of 42 U.S.C.A.§402(d)(4).

For the foregoing reasons, Sonja's two children by wage earner are not entitled to benefits upon wage earner's record since they were not, in fact, dependent upon him as required by 42 U.S.C.A.§402(d)(1)(C) nor are they deemed to be dependent upon wage earner by reason of 42 U.S.C.A.§402(d)(3).

Respectfully submitted,

BERG and DUFFY

July 11, 1973

Alfred S. Berg
James P. Duffy, III
Of Counsel

Room 200, Tinker National Bank Building
180 East Main Street, Smithtown, N.Y.11787

July 6, 1973

In the Case of Marie A. Eisenhauer, Claimant
Francis E. Eisenhauer (Deceased) Wage Earner
Social Security Account Number 130-18-7297

James P. Duffy, Esq.
Berg and Duffy, Esqs.
150 Great Neck Road
Great Neck, New York 11021

Dear Mr. Duffy:

In accordance with your phone conversation with my Hearing Assistant today, enclosed please find a list of the exhibits which were entered into evidence at the hearing, which was held on May 18, 1973, in the above-identified case.

Very truly yours,

Maurice C. Rosenzweig
Administrative Law Judge

MCR:at

Encl.

Room 200, Tinker National Bank Building
180 East Main Street, Smithtown, N. Y. 11787

June 22, 1973

In the Case of Marie A. Eisenhauer, Claimant
Francis E. Eisenhauer (Deceased) Wage Earner
Social Security Account Number 130-18-7297

James P. Duffy, Esq.
Berg and Duffy, Esqs.
150 Great Neck Road
Great Neck, New York 11021

Dear Mr. Duffy:

Receipt is acknowledged of your letter dated June 20, 1973, in which you request that you be granted an extension of time in which to submit a brief concerning Mrs. Eisenhauer's claim for children's insurance benefits.

Your request is hereby granted and you are given until July 13, 1973 in which to submit this brief. If your brief is not received on or before the close of business on July 13, 1973, a decision will be issued based on the testimony adduced at the hearing and the evidence which is now of record.

Very truly yours,

Maurice C. Rosenzweig
Administrative Law Judge

MCR:at

cc: Mineola DO

LAW OFFICES
BERG AND DUFFY
150 GREAT NECK ROAD
Smithtown, New York
TELEPHONE
(516) 466-4040

ALFRED S BERG
JAMES P. DUFFY, III

Department of Health, Education, & Welfare
Bureau of Hearings & Appeals
JUN 22 1973
Social Security Administration

41

June 20, 1973

Hon. Maurice Rosenzweig,
Administrative Law Judge
Bureau of Hearings and Appeals
Social Security Administration
Room 200
Tinker National Bank Building
180 East Main Street
Smithtown, New York 11787

Maria Eisenhauer - Children's Social Security Benefits
Wage Earners Social Security No. 130-18-7297

Dear Judge Rosenzweig:

During the course of the hearing held in this matter on May 18, 1973, I requested the opportunity to file a brief on or before June 22, 1973, which request you granted. You further indicated that, if we required more time to file the brief, you would grant an extension if timely requested.

As I indicated to you, we are working on other matters for Mrs. Eisenhauer, including an appeal to the U.S. Court of Appeals, Second Circuit. These other matters have required us to devote a great deal of time to Mrs. Eisenhauer's affairs to the extent that we have not been able to put our brief in final form at this time. Accordingly, I respectfully request an extension of our time to file a brief in this matter until July 13, 1973.

Since we just recently successfully concluded Mrs. Eisenhauer's appeal, I anticipate that we will have more opportunity now to concentrate on this matter.

Would you please indicate your receipt of this letter by stamping the enclosed copy thereof as "Received" and returning it to us in the enclosed self-addressed stamped envelope that we have provided for your convenience.

Respectfully yours,

James Duffy

JPD:dh
Enclosures

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

42

# NOTICE BY ATTORNEY OF APPOINTMENT AS REPRESENTATIVE

I have been appointed by Maria Fiorentino
(Claimant)

to act as ~~(his)~~ (her) representative with respect to ~~(his)~~ (her) claim under the Social Security Act and/or the Black Lung Benefits Act based on the earnings record of

Francis F Fiorentino 138-18-7297
(Wage Earner) (Social Security Number)

I am authorized to obtain from the Administration information concerning this claim; and it is understood that any notice or request sent to me shall have the same force and effect as if sent to the above claimant.

I am in good standing in the courts in which I have been admitted to practice law.

J. R. C. Fitzpatrick
(Signature of Attorney)

James C. D. Fitzpatrick III
(Type or Print Name of Attorney)

Daly and Duffy
(Address)

152 Great Neck Rd.

Great Neck N.Y. 11021
(Telephone Number)

516 466 1040

11-1-72
(Date)

(SEE REVERSE SIDE FOR IMPORTANT INFORMATION ON REGULATIONS PERTAINING TO FEES FOR SERVICES TO A PARTY AND INFORMATION ON CONFLICT OF INTEREST)

FORM HA-512.1

## FEES FOR SERVICES OF ATTORNEY

The rules governing fees for the representation of claimants appear in sections 404.971 through 404.977(a) of Social Security Administration Regulations No. 4 (20 CFR 404.971 – 404.977(a)) and sections 410685 through 410.686e of Social Security Administration Regulations No. 10 (37 F.R. 17707, August 31, 1972). In summary, the regulations provide that:

An attorney desiring to charge and receive a fee for services rendered for an individual in any proceeding before the Administration under titles II or XVIII of the Social Security Act or under title IV of the Federal Coal Mine Health and Safety Act, as amended, must file a written petition to obtain approval of such fee. The petition must contain, in addition to other specific information, an itemization of the services rendered and the time expended as set forth in §404.976(a) and §410.686c(a). The amount of the fee, if any, will be determined on the basis of the various factors described in §404.976(b) and §410.686c(b) by an authorized official of the appropriate component of the Administration where the attorney's services were concluded, and no fee shall be charged or received which is in excess of the amount approved. This rule is applicable whether the fee is charged to or received from a party to the proceeding or someone else (§404.975 and §410.686b).

* * * * * * * * *

The attorney should maintain an itemized record of his services rendered and the time expended in any social security case or black lung case he handles. This will facilitate the preparation of the required petition.

Printed petition forms, which provide for the inclusion of all the required information, are available upon request from social security offices, hearing offices, or the Bureau of Hearings and Appeals, Social Security Administration, P.O. Box 2518, Washington, D.C., 20013.

Section 206(a) of the Social Security Act provides:

"* * * Any person * * * who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both."

Section 413(b) of the Federal Coal Mine Health and Safety Act, as amended, and section 1872 of the Social Security Act provide that section 206(a) applies to black lung and medicare claims, respectively.

## CONFLICT OF INTEREST

Sections 203, 205 and 207 of Title 18 of the United States Code make it a criminal offense for certain officers, employees and former officers and employees of the United States to render certain services in matters affecting the Government or to aid or assist in the prosecution of claims against the United States.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

# NOTICE OF HEARING

44

In the case of

Marie A. Eisenhauer
(Claimant)
Francis E. Eisenhauer
(Wage Earner) (Leave blank if same as above)

Claim for

Children's Insurance Benefits

130-18-7297
(Social Security Number)

TO: Mrs. Marie A. Eisenhauer
45 Birchwood Drive
New Hyde Park, New York 11040

Pursuant to your written request and the provisions of Sections 205(b) and 1869(b) of the Social Security Act, a hearing will be held by the undersigned, an Administrative Law Judge of the Bureau of Hearings and Appeals,

— the 18th day of May, 1973 at 9:30AM o'clock in Room 200 of Tinker National Bank Building, 180 East Main Street (Number and Street), Smithtown (City), New York 11787 (State)

The general issues to be determined are whether Francis E. Eisenhauer, Sonja L. G. Eisenhauer, rsula M. G. Eisenhauer, Monika S. B. Radauscher, Andreas J. Radauscher, Erich M. Radauscher and/or Wilhelm J. Radauscher, all children of Sonja S. Eisenhauer, also known as Sonja S. Radauscher, are each entitled to children's insurance benefits under Section 202(d)(1) of the Social Security Act based upon the social security account of Francis E. Eisenhauer, the deceased wage earner.
The specific issues on which findings will be made and conclusions will be reached are whether each of the named children, supra, of Sonja S. Eisenhauer, also known as Sonja S. Radauscher, is the child of Francis E. Eisenhauer, the deceased wage earner, as the term "child" is defined for social security purposes.

REMARK: Since resolution of the above issues involve the legal interpretation and application of the applicable Social Security Law, it is suggested that it would be in your best interests that you be represented at the hearing by an attorney.

IMPORTANT - Please sign the enclosed postal card notifying me whether you will be present at the above time and place. The postal card should be returned at once; no postage is required.

Administrative Law Judge
Maurice C. Lorenzetti grat

Date
May 4, 1973

Telephone Number
724-5757

Mail Address
BUREAU OF HEARINGS AND APPEALS, SSA
Room 200, Tinker National Bank Building
180 East Main Street
Smithtown, New York 11787

cc: Representative (Name and Address)

District Office (Address)
1505 Kellum Place, Mineola, New York 11501

Enclosure
READ THE OTHER SIDE OF THIS NOTICE FOR FURTHER INFORMATION REGARDING YOUR HEARING.

(Over)

FORM HA-507
(9-72)

HEARING FILE

## IMPORTANT INFORMATION



### Appearance at Hearing

The date and time of this hearing have been set aside especially for you. Your failure to appear without good reason may cause dismissal of your Request for Hearing. Even though there is good reason, any postponement will delay disposition of your case. If an emergency arises preventing your appearance after you mail the postal card stating that you will be present, notify the Administrative Law Judge promptly and give your reasons. Also, indicate the earliest date after which your case can be rescheduled for hearing.

### Conduct of Hearing

The law places on you the burden of submitting evidence to support your claim. Bring to the hearing all evidence not already presented in your case.

You will have an opportunity to examine the documentary evidence on the day of the hearing. If you wish to examine it before the day of the hearing you may do so at the hearing office.

At the hearing the Administrative Law Judge will inquire fully into the matters at issue. You may present evidence either in the form of written documents or the testimony of witnesses, or both. Your testimony and that of any witnesses will be under oath or affirmation, and a verbatim record of the proceedings will be made. You may suggest findings of fact or conclusions of law and present arguments orally or in writing.

### Representation

While it is not required, if you desire assistance in presenting your case you may be represented at the hearing by an attorney or other qualified person of your choice. Any fee which your representative wishes to charge for his services in your case must be approved by the Bureau of Hearings and Appeals. Your representative must petition for fee approval at the conclusion of his services, and must furnish you with a copy of his petition.

If you are found entitled to benefits and your representative is an attorney, 25 percent of your back benefits will normally be withheld pending approval of a fee for your attorney. If the approved fee is less than the 25 percent withheld, the difference will be paid directly to you. If the approved fee is more than 25 percent, payment of the difference is a matter to be settled between you and your attorney.

If your representative is not an attorney, none of your benefits will be withheld, and payment of the fee which is approved is a matter to be settled between you and your representative.

If you have any other questions, your local Social Security office will be glad to help you.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

# REQUEST FOR HEARING

Take or mail original and all copies to your local Social Security office. 46

CLAIMANT'S NAME
Marie A. Eisenhauer

WAGE EARNER'S NAME (Leave blank if same as above)
Francis E. Eisenhauer

SOCIAL SECURITY NUMBER
130-18-7207

CLAIM FOR (CIRCLE TYPE OF CLAIM)
- ☐ Entitlement to Disability Benefits — DIB DWB CDB
- ☐ Continuance of Disability Benefits — DIB DWB CDB
- ☒ Other Widow's Insurance Benefit (Specify type of claim)

I disagree with the determination made on the above claim and request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. My reasons for disagreement are: ✓

See important letter attached (Ltr dtd 11/6).

Check one of the following:
- ☒ I have additional evidence to submit. (Attach such evidence to this form or forward to the Social Security Office within 10 days.)
- ☐ I have no additional evidence to submit.

Check ONLY ONE of the statements below.
- ☐ I wish to appear in person before the hearing examiner.
- ☐ I waive my right to appear and give evidence, and hereby request a decision on the evidence before the hearing examiner.

Signed by: (Either the claimant or representative should sign-Enter addresses for both. If claimant's representative is not an attorney, complete Form SSA-1696.

SIGNATURE OR NAME OF CLAIMANT'S REPRESENTATIVE ☐ ATTORNEY ☐ NON-ATTORNEY

ADDRESS

CITY, STATE, AND ZIP CODE

TELEPHONE NUMBER

NOV 14 1972 SSA DISTRICT OFFICE 01138 HICKSVILLE, N.Y.

CLAIMANT'S SIGNATURE
X Marie A. Eisenhauer

ADDRESS
42 Birchwood Drive

CITY, STATE, AND ZIP CODE
New Hyde Park, New York 11040

DATE Nov 10 1972
Claimant should not fill in below this line

TELEPHONE NUMBER
516-741-2915

Is this request filed within 6 months of the reconsideration determination? ☒ Yes ☐ No
If "No" is checked: (1) attach claimant's explanation for delay, (2) attach any pertinent letter, material, or information in the Social Security Office.

## ACKNOWLEDGMENT OF REQUEST FOR HEARING

Your request for a hearing was filed on Nov. 14, 1972 at Mineola N.Y.
The hearing examiner will notify you of the time and place of the hearing at least 10 days prior to the date which will be set for the hearing.

Hearing Examiner Copy

TO: 200 Tinker Nat'l Bank Bldg
☒ Hearing Examiner 180 Cart, Main St
Smithtown, N.Y. 11787

TO:
☐ Hearing Examiner (Claims involving disability, retirement, survivors, all foreign claims and questions of entitlement to health insurance.)

Claim File(s) Requested by Teletype

to (Location)

☐ CWAB (BDP)

Interpreter Needed (Language)

Claim File Copy

For the Social Security Administration

By: George Petrucek, C-R
(Signature) (Title)
1505 Kellum Place
(Street Address)
Mineola, N.Y. 11501
(City) (State) (ZIP Code)

Servicing District Office Code 138

Form HA 501 (11-71)

HEARING EXAMINER

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
BUREAU OF HEARINGS AND APPEALS

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**TRANSCRIPT**

| In the case of | Claim for |
|---|---|
| Marie A. Eisenhauer (Claimant) | Children's Insurance Benefits |
| Francis E. Eisenhauer (Wage Earner) (Leave blank if same as above.) | 130-18-7297 (Social Security Number) |

Hearing Held

at

Room 200, Tinker National Bank Building
180 East Main Street, Smithtown, N. Y. 11787

on

May 18, 1973

APPEARANCES: Marie A. Eisenhauer, Claimant
James P. Duffy, III, Attorney for the Claimant

Maurice C. Rosenzweig
XXXXXXXXXX
Administrative Law Judge

Agnes Tanner
Hearing Assistant

Form HA 509
(3-71)

# INDEX OF TRANSCRIPT

In the Case of

Marie A. Eisenhauer, claimant

Francis E. Eisenhauer, wage earner

Account Number

130-18-7297

Discussion of Facts and Issues.....Commencing p. 15

Discussion of Evidence.....Commencing p. 26

(The following is a transcript of the hearing held before [illegible] an Administrative Law Judge of the Bureau of Hearings and Appeals, Social Security Administration, Department of Health, Education and Welfare, on May 18, 1973, at Smithtown, New York, in the case of Marie A. Eisenhauer, claimant, based on the earnings record of Francis E. Eisenhauer, deceased wage earner, social security account number 130-18-7297. The claimant, Marie A. Eisenhauer, appeared in person and was represented by her attorney, James P. Duffy, III, Esq.)

(The hearing commenced at 10:25 a.m., on May 18, 1973.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

Mrs. Eisenhauer, Mr. Duffy, before we begin taking testimony in connection with the hearing that you've requested, I believe that I should first explain the purpose of the hearing, the procedure to be followed, and the issues which are to be resolved as a result of the hearing.

The purpose of the hearing is to afford an individual who has received a decision from the Social Security Administration, with which he is dissatisfied, an opportunity to present their claim before an impartial individual who has had no previous connection with their case. Up until this moment, the entitlement to child's insurance benefits, based upon the social security account of Francis E. Eisenhauer, the deceased wage earner, has been adjudicated by the New York Payment Center of the Social Security Administration. I am not an employee of, nor do I represent, the New York Payment Center. I am in a separate branch of the Social Security Administration known as

the Bureau of Hearings and Appeals, and I will make a new and independent determination concerning the entitlement to child's insurance benefits, based on the social security account of Francis E. Eisenhauer, the deceased wage earner.

That determination will be based in part on the documents which have already been gathered in connection with this claim, in part as a result of the testimony, which is taken during the course of the hearing, and in part as a result of consideration of any additional documentary evidence which you may submit for consideration during the course of the hearing and which is made part of the record in the case.

The procedure would be, normally, that I would ask you certain questions, which you, of course, would answer, and, then, after I have concluded my questioning, you would then have an opportunity to call to my attention and make a matter of record, through the questioning of your attorney, Mr. Duffy, any additional facts which you thought were material and relevant to your claim, and which I should know and which I should take into consideration before I came to any conclusion.

In this particular case, I think the problem at issue is a matter of law rather than a question of fact. Am I correct in that Mr. Duffy?

MR. DUFFY: Partially.

ADMINISTRATIVE LAW JUDGE: All right, then we'll see before -- we'll begin taking testimony after I finish my concluding statement -- my opening statement, rather, we'll see whether we can agree on what the facts are in the case. If we can't, then we'll have to take testimony on it.

The testimony is taken, as I said, under -- as I haven't yet said -- under oath, and a record is kept by means of the equipment you see on the table in front of you which is now busily recording each word that I am saying to you at this time. Before the hearing is concluded, you will be given an opportunity, through your attorney, to advance whatever argument you care to advance, as distinguished from testimony, in support of your contention that the children of Sonja Eisenhauer are not entitled to child's insurance benefits based upon the social security account of Francis E. Eisenhauer, which is your contention, is it not?

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: Following the hearing, you have the right, although you're not compelled to do so, you have the right, if you wish, to submit proposed findings of fact that you think that I should make as a result of the hearing. You also have the right, following the hearing, although, once again, you're not required to do so, but you may, if you

wish, submit a memorandum of law in support of your contention in this particular case, and seeing that you are so well armed, I would suggest, Mr. Duffy, that this is exactly what you do, because, in my opinion, and I may be wrong, it's purely a question of law. If you say it's a question of fact, we'll go into the facts, if necessary, but I think the facts are pretty well established by the documents in the file.

My first knowledge of your claim, Mrs. Eisenhauer, came after you filed your request for a hearing. When you filed your request for a hearing, the New York Payment Center forwarded your records to me so that I could conduct the hearing which you had requested be held. When I received your records, I went through them very carefully and I selected those documents in your file which are material and relevant to the claim. I have listed them in a list of proposed exhibits. Before the hearing began, both you and your attorney, Mr. Duffy, were given the opportunity of examining the proposed list of exhibits. Incidentally, have you got a copy of that list?

MR. DUFFY: I do not have a copy.

ADMINISTRATIVE LAW JUDGE: Would you like a copy?

MR. DUFFY: Yes, I would.

ADMINISTRATIVE LAW JUDGE: Please give Mr. Duffy a copy. As I said, you examined the list and every document

mentioned on that list, is that correct, Mr. Duffy?

MR. DUFFY: Yes, that is correct.

ADMINISTRATIVE LAW JUDGE: Do you have any objections to any of these documents being considered in connection with this claim?

MR. DUFFY: No, I do not.

ADMINISTRATIVE LAW JUDGE: There being no objection, the documents set forth on the list of proposed exhibits are received in evidence and are identified as exhibits numbered one through thirty-two, as indicated on that list.

MR. DUFFY: Your Honor, would it be possible to receive a copy of exhibit number twenty-nine, which is approximately thirteen pages --

ADMINISTRATIVE LAW JUDGE: Wait until my opening statement, then I'll entertain that request. An examination of the documents which have just been received in evidence shows what has happened thus far in connection with your claim for child's insurance benefits. I will, for the sake of the record that we are making here today, summarize briefly what has happened thus far. I ask you to pay attention to that summary as I make it because, if I inadvertently make a mistake, I want you to interrupt me and correct me because I do want the record to show accurately what has happened thus far.

The record shows that Francis E. Eisenhauer died on June 9, 1970, and that, thereafter, on June 29, 1970, you filed

an application for mother's insurance benefits on your own behalf, and for child's insurance benefits on behalf of your children, Francis E. -- no, that's the -- Francis X. and Brian F. Eisenhauer.

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: And that your application for those benefits was granted.

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: The record further shows that subsequently, on September 23, 1970, an individual, known as Sonja Eisenhauer, filed an application for child's insurance benefits on behalf of her children, which she stated Francis E. Eisenhauer, the deceased wage earner, was either the father and that -- or the stepfather. The record further shows that her application for those benefits was also granted, and, therefore, the amount of benefits which had originally been granted to you and to your children were reduced because the Social Security Act has a limitation as to how much can be paid out on any one account. Is that correct?

MRS. EISENHAUER: It didn't happen in 1970.

ADMINISTRATIVE LAW JUDGE: No. You filed your application in 1970.

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: I said the application was granted.

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: You objected to the determination that the children of Sonja Eisenhauer were entitled to child's insurance benefits based on the social security account of Francis E. Eisenhauer, the deceased wage earner, and you requested that that determination be reconsidered.

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: Following reconsideration, the decision that the children of Sonja Eisenhauer were entitled to child's insurance benefits was affirmed by the New York Payment Center, and you were advised of that determination by means of a letter dated August 11, 1972. In that letter, you were told that if you still disagreed, you had a right to request a hearing, and, on November 14, 1972, you did request a hearing. It is because of that request for a hearing that this hearing is presently being conducted.

You were advised that the hearing would take place at this time by means of a notice of hearing, which I caused to be sent to you. That notice of hearing advised you of your right to be represented at the hearing by an attorney, or a layman of your own selection, and you have elected to be represented at this hearing by Mr. James P. Duffy, who is an attorney duly admitted to practice law in the State of New York.

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: You were also advised of your right to submit additional evidence in support of your claim that the children of Sonja Eisenhauer were not entitled to children's insurance benefits based upon the social security account of Francis E. Eisenhauer, the deceased wage earner.

That, very briefly and succinctly, is a summary of what has happened up until this moment. Is that summary correct?

MRS. EISENHAUER: Yes, it's correct.

ADMINISTRATIVE LAW JUDGE: Now the issue to be resolved, as a result of this hearing, is whether the children of Sonja Eisenhauer are, or are not, entitled to child's insurance benefits, based upon the social security account of Francis E. Eisenhauer, the deceased wage earner. As you already know, the New York Payment Center has twice decided that question in the affirmative. They have allowed the claim initially, and have affirmed the allowance of that claim following reconsideration. It is your contention that the children of Sonja Eisenhauer are not entitled, under the Social Security Act, to child's insurance benefits based upon the social security account of Francis E. Eisenhauer, the deceased wage earner. I must decide whether you are right in your contention, or whether the New York Payment Center was right in its determination. That is the issue. Do you understand the issue? Do you Mr. Duffy?

MR. DUFFY: I do.

ADMINISTRATIVE LAW JUDGE: Now, that concludes my opening -- Oh yes, one other thing. Mr. Duffy, are you going to charge Mrs. Eisenhauer a fee for representing her at the hearing?

MR. DUFFY: We are handling a number of matters for Mrs. Eisenhauer.

ADMINISTRATIVE LAW JUDGE: Right.

MR. DUFFY: An appeal to the Second Circuit Court of Appeals of the United States --

ADMINISTRATIVE LAW JUDGE: Uh huh.

MR. DUFFY: Her husband's estate, and possibly another matter, as well. We are charging Mrs. Eisenhauer a fee. We have a retainer agreement with her. We are generally including this matter within the scope of --

ADMINISTRATIVE LAW JUDGE: The reason I say that, Mr. Duffy, is because you may not charge Mrs. Eisenhauer a fee for representing her at this hearing unless you first obtain my approval.

MR. DUFFY: I see.

ADMINISTRATIVE LAW JUDGE: And to obtain my approval, it is necessary for you to complete certain forms setting forth the work you've done, the fee you desire for those services you've rendered, etc., and I must approve it.

MR. DUFFY: If we are charging Mrs. Eisenhauer a separate fee for this, then I will make an application --

ADMINISTRATIVE LAW JUDGE: All right. I want the record to show that I've explained the situation to you and I've given you the necessary forms. If I don't receive it, I will assume that you're not charging a separate fee for the services rendered here. Now, that concludes my opening statement, and what was your request about an exhibit?

MR. DUFFY: We have a thirteen or fourteen page handwritten exhibit from Sonja Eisenhauer, I believe it's denominated exhibit number twenty-nine, and, if possible, we would like to have a copy of that exhibit.

ADMINISTRATIVE LAW JUDGE: For what purpose?

MR. DUFFY: We feel it's relevant to some of the issues here and also relevant to other issues existing between these same parties.

ADMINISTRATIVE LAW JUDGE: The only reason you could have a copy of an exhibit is to prepare you to -- in an action before the Social Security Administration. It may not be used for any purpose outside. Now, if you'll explain why you need a copy to enable you to present your case here, at this time, I'll be glad to listen to it.

MR. DUFFY: One of the issues that we feel is relevant to these proceedings is whether or not Sonja Eisenhauer, and

the decedent, or the wage earner, I guess is how he is referred to in these proceedings --

ADMINISTRATIVE LAW JUDGE: Yes.

MR. DUFFY: Committed a fraud --

ADMINISTRATIVE LAW JUDGE: On who?

MR. DUFFY: On the State of Maryland in obtaining a marriage license.

ADMINISTRATIVE LAW JUDGE: This is not material to the issue for social security benefits.

MR. DUFFY: It would be our contention that, if the State of Maryland were aware of the fraud committed upon them, the marriage ceremony upon which Sonja Eisenhauer relies could never have occurred.

ADMINISTRATIVE LAW JUDGE: That, too, is immaterial.

MR. DUFFY: And not being able, or actually, and that ceremony not being able to occur, the official records of that ceremony would be expunged.

ADMINISTRATIVE LAW JUDGE: Well, the only way you could establish that, of course, would be to actually have the State of Maryland --

MR. DUFFY: We are presently proceeding before the Circuit Court of the County of Cecil, Maryland to have the records of the ceremony at issue expunged on the grounds that the license, therefore, was obtained through fraud. And this particular document demonstrates the -- Sonja Eisenhauer's --

ADMINISTRATIVE LAW JUDGE: I can't give you a -- I can't give you a copy of this letter for that purpose because that's a matter extraneous to entitlement to social security benefits. What I will say to you is this. If you wish to submit a brief in which you -- by reference to the Social Security Act -- point out that, in the event you are successful in having it expunged, the law, as embodied in the Social Security Act, would not be applicable, I am prepared to delay a decision, possibly, until such time as the issue is determined.

MR. DUFFY: Well, that only affects part of the issue here. It may very well be that I will request Your Honor to delay part of his decision. We have two groups of children here.

ADMINISTRATIVE LAW JUDGE: I understand that. Now, let's see if we can agree on what the facts are --

MR. DUFFY: May I ask just one question before we proceed, Your Honor, and that is that the rights of six -- of seven individuals, who are all children of Sonja Eisenhauer, may be substantially and adversely affected in these proceedings?

ADMINISTRATIVE LAW JUDGE: That is correct.

MR. DUFFY: Have notice of these proceedings --

ADMINISTRATIVE LAW JUDGE: They have not, because --

MR. DUFFY: They are entitled to receive notice of these --

ADMINISTRATIVE LAW JUDGE: They will be, if, as a result of the hearing, I intend to issue a decision which would adversely affect their interests, I will schedule another hearing, in which I will advise her of my proposed course of action, and then I will give her an opportunity to attend that hearing to answer whatever arguments have been made, and you will be advised of it at that time. In other words, what I am saying to you is this. I have not caused Mrs. Sonja Eisenhauer to be placed on notice of this hearing because I have not, as yet, decided whether this particular hearing has any merit, in view of the wording of the Social Security Act. If I decide there is a substantial question, which may be resolved adversely to her interests, I will advise her of that fact, and then conduct another hearing at which she will be given an opportunity to appear and defend her rights. Do you --

MR. DUFFY: I submit to Your Honor that, during the course of this hearing, such an issue will evolve.

ADMINISTRATIVE LAW JUDGE: If it is so, I will do as I have indicated. I will not deprive her of her rights without giving her an opportunity to defend herself.

MR. DUFFY: The question was directed more towards, since I anticipate this issue coming forward, would it be more expedient, in the interests of resolving this thing --

ADMINISTRATIVE LAW JUDGE: Well, let me put it this way --

MR. DUFFY: To include her at this time.

ADMINISTRATIVE LAW JUDGE: Frankly, it would not, because she currently lives in Jersey, does she not? She could just as easily live in California, and it's not our custom to compel people to travel extended distances to attend a hearing which may or may not have any merit. Furthermore, if the hearing -- if a supplemental hearing is scheduled, it will be held in New Jersey, at her convenience, so that she's not compelled to travel unduly, and it will be held out of our Jersey Office by an Administrative Judge there.

MR. DUFFY: Would we have a right to appear?

ADMINISTRATIVE LAW JUDGE: Yes, of course. Because, then -- then there will be a contested issue in which I have determined there is at least a degree of merit which requires resolution. This is what you'll have to convince me of at this stage, you see. Because when you said it was a fraud on the Court in Maryland, which you're going to explain for the record, I doubt very much whether that will affect the wording of the Social Security Act. I'll accept a brief on that, because the law does not say that it has to be a valid marriage. As a matter of fact, the New York Payment Center has held it was not a valid marriage. Sonja Eisenhauer is not entitled to mother's insurance benefits by reason of that marriage. There is a specific statement in the Social Security Act, as you no doubt know, where there is a purported marriage, it doesn't

have to be in good faith. It only has to be in good faith [illegible] understanding of the law. Now, if you can submit a brief which will indicate differently, I'll be glad to consider it, and that's what I'm going to give you an opportunity to do. Now, let's see if we can stipulate what the facts are.

DISCUSSION OF FACTS AND ISSUES:

ADMINISTRATIVE LAW JUDGE: We will stipulate, of course, without any contest, that Marie Eisenhauer, who is the claimant here, married Francis Eisenhauer on January 13, 1951. We'll stipulate that, right?

MR. DUFFY: Can we accept the declaratory judgement issued by the Supreme Court in the State of --

ADMINISTRATIVE LAW JUDGE: Let's take it step by step.

MR. DUFFY: The reason why I suggested that is because incorporated within that declaratory judgement would probably be most of the facts --

ADMINISTRATIVE LAW JUDGE: I'd rather take it step by step this way, individually. And we can also stipulate that Francis X. Eisenhauer and Brian F. Eisenhauer were issues of that marriage.

MR. DUFFY: Yes.

ADMINISTRATIVE LAW JUDGE: Now, can we also stipulate that Francis Eisenhauer and Marie Eisenhauer, at some time --

the date's not important -- separated. Lived apart from each other.

MR. DUFFY: Yes.

ADMINISTRATIVE LAW JUDGE: While still legally married.

MR. DUFFY: Yes.

ADMINISTRATIVE LAW JUDGE: Right?

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: Can we also stipulate that, during this period of separation, Francis Eisenhauer lived with Sonja, who you can call Radauscher, or Eisenhauer, or any way you want.

MRS. EISENHAUER: Radauscher.

ADMINISTRATIVE LAW JUDGE: Radauscher, lived together in the State of New Jersey.

MR. DUFFY: We can, as long as you say at some time.

ADMINISTRATIVE LAW JUDGE: Yes. That isn't important. Now, can we also stipulate that, prior to the time they began living together, Sonja had been married to Andreas Radauscher and they had four children?

MR. DUFFY: Yes sir.

ADMINISTRATIVE LAW JUDGE: As a result of that marriage.

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: And that the four children are Erich, Wilhelm, Monika and Andreas.

MR. DUFFY: I believe those would be the four children referred to in exhibits twenty-seven through twenty-four.

ADMINISTRATIVE LAW JUDGE: I don't know whether they're referred to --

MR. DUFFY: In the birth certificates.

ADMINISTRATIVE LAW JUDGE: Well, the four stepchildren of -- the four children which the New York Payment Center has stated are the stepchildren of Francis Eisenhauer, and that the marriage to -- can we stipulate also that the marriage of Andreas had terminated by divorce? Yes or no?

MR. DUFFY: Yes, I'd like to get a date on that, however.

MRS. EISENHAUER: March 1st, 1966 or 67.

ADMINISTRATIVE LAW JUDGE: If you'd like the date, I'll give it to you.

MR. DUFFY: March 7, 1966.

ADMINISTRATIVE LAW JUDGE: Yes, you want the date in here?

MR. DUFFY: The marriage between Sonja Radauscher and Andreas Radauscher terminated by a decree of divorce issued by the Court in Juarez, Mexico on March 7, 1966.

ADMINISTRATIVE LAW JUDGE: Fine.

MR. DUFFY: I'm prepared to stipulate that.

ADMINISTRATIVE LAW JUDGE: Now, we've stipulated that she had four children by Radauscher. Have we stipulated yet that she had --

MR. DUFFY: Provided that we have not stipulated that those are the only children that she had by Radauscher.

ADMINISTRATIVE LAW JUDGE: No. Well we haven't indicated, you may have -- we're only interested in these four children who are collecting child's insurance benefits. We have stipulated that she had those four children by Radauscher, Right?

MR. DUFFY: Yes.

ADMINISTRATIVE LAW JUDGE: Are we also stipulating that she had three children by Francis Eisenhauer?

MR. DUFFY: No, we are not.

ADMINISTRATIVE LAW JUDGE: All right, then you'll have to submit evidence that there was not, because in the file we have --

MR. DUFFY: The oldest of the --

ADMINISTRATIVE LAW JUDGE: I'm not quarreling with you. I'm just trying to point out that that was based upon birth certificates which are on file, and --

MR. DUFFY: We will stipulate as to the youngest two, but not as to the oldest.

ADMINISTRATIVE LAW JUDGE: If you will not stipulate, you will have to present testimony contradicting these documents in the file. Because you're placing an additional -- you'll have to contest to sustain you're --

MR. DUFFY: Only as to one of the three, Your Honor.

ADMINISTRATIVE LAW JUDGE: But, as far as I'm concerned, if I can't get a stipulation which will cover the facts, I have to pass upon, you'll have to present evidence to support your contention that the other two are not. That's what I'm saying. You are willing to stipulate one. Which one?

MR. DUFFY: That the two youngest are children of Francis, the wage earner, and Sonja Radauscher.

ADMINISTRATIVE LAW JUDGE: All right, the two youngest are. Let's see who they are. The two youngest are Erich, no that's a --

MR. DUFFY: They would be the --

MRS. EISENHAUER: Sonja and Monika.

MR. DUFFY: The immediately preceding exhibit.

ADMINISTRATIVE LAW JUDGE: Yes, that's what I'm trying to find out. Francis E. was born in sixty-six Sonja was born in sixty-nine. Let's see what the date of birth of the other two are. It's easier to work from the --

MR. DUFFY: There are only three children at issue here.

ADMINISTRATIVE LAW JUDGE: The other one is Ursula. Right?

HEARING ASSISTANT: I think it's exhibit number twenty-two and twenty-three.

MR. DUFFY: We will stipulate to the date of birth of the oldest of the three.

ADMINISTRATIVE LAW JUDGE: You said twenty-two to twenty-three?

HEARING ASSISTANT: Twenty-two and twenty-three. The last of the birth certificates.

ADMINISTRATIVE LAW JUDGE: All right. Ursula, according to this baptismal certificate, was born on April 12, 1970. Do you stipulate that?

MR. DUFFY: We stipulate to that.

ADMINISTRATIVE LAW JUDGE: Francis Eugene Eisenhauer, according to a certificate of birth registration, was born on July 27, 1966.

MR. DUFFY: We will stipulate that he was born on that date. We will not stipulate as to whose child he is.

ADMINISTRATIVE LAW JUDGE: Well, you stipulated Sonja's child, didn't you? You're making reference to the father.

MR. DUFFY: We'll say leave the question of paternity open.

ADMINISTRATIVE LAW JUDGE: All right.

MR. DUFFY: And we'll stipulate to the other facts.

ADMINISTRATIVE LAW JUDGE: And the third child is Francis E. Eisenhauer, isn't it?

MR. DUFFY: The date of birth. There are two baptismal certificates there.

ADMINISTRATIVE LAW JUDGE: Let's see a minute. Ursula. Sonja. Yes, Sonja L. Sonja L., according to the baptismal

certificate, was born on February 26, 1969.

MR. DUFFY: We will stipulate to that. We will stipulate to the facts, Your Honor.

ADMINISTRATIVE LAW JUDGE: I beg your pardon?

MR. DUFFY: We'll stipulate to the facts shown on that certificate.

ADMINISTRATIVE LAW JUDGE: Ah huh. All right. As I see it then, you stipulate to the fact that Ursula and Sonja are children of Francis E. Eisenhauer, but you reserve paternity questions on Francis E. Is that correct?

MR. DUFFY: We do.

ADMINISTRATIVE LAW JUDGE: All right. All right. Do you stipulate also that they went -- that Sonja and Francis E. Eisenhauer went through a ceremonial marriage service in Maryland on -- let's see if I can find it.

MR. DUFFY: August 14, 1969 --

HEARING ASSISTANT: Exhibit number twenty.

ADMINISTRATIVE LAW JUDGE: August 14, 1969?

MR. DUFFY: No. We will not stipulate to that.

ADMINISTRATIVE LAW JUDGE: All right, then you can -- I said went through a marriage ceremony. I didn't say were validly married.

MR. DUFFY: We will not stipulate to that.

ADMINISTRATIVE LAW JUDGE: You will not stipulate. All right, then what we have at issue are two things. We have at

issue the paternity of Francis E., which, according to exhibit number twenty-one, is not at issue, but you're contesting it so that it is at issue. Do you follow? And we have at issue, the marriage of Sonja and Francis Eisenhauer, which is established by exhibit number twenty, but you take issue to it. So those are the two issues that we have, is that correct?

MR. DUFFY: Two of several more.

ADMINISTRATIVE LAW JUDGE: Well, these are things I'm interested in and which will have a bearing on my determination. Any lawsuits, aside from the issues, which you may have pending between Mrs. Eisenhauer, here, and Sonja Eisenhauer, there, which have no bearing on the entitlement of children to claim child's insurance benefits under the Social Security Act does not concern me. My sole purpose in this case is to determine whether the children of Sonja Eisenhauer are, or are not, entitled to child's insurance benefits based upon the social security account of the deceased wage earner under the applicable provisions of the Social Security Act. That's my sole task in this case. If you have any side issues to resolve between both Mrs. Eisenhauers, they will not affect the entitlement of the children to collect under the Social Security Act, because the law is explained in the letter which Mrs. Eisenhauer received following reconsideration. Good faith on the part of the marriage which may, or may not, have taken place in Maryland,

is not material insofar as the children are concerned under the applicable provisions of the Social Security Act. It would be applicable if Sonja were to claim benefits.

As to whether the State of Maryland will set aside this marriage, and you say you have an action pending, as to the effect that that will have on the children, I honestly don't know, but I'm willing to accept a brief on it.

MR. DUFFY: Okay. It is our contention --

ADMINISTRATIVE LAW JUDGE: I'm trying to explain what the situation is. So when I say, the only issues which I have, at the moment, which have been raised in our discussion of what will, or will not, be stipulated, which are material to me and my determination, is the paternity of Francis E. and the marriage -- as to whether they went through a marriage ceremony in Maryland, as evidenced by this certificate of marriage. You say you want to make them both an issue, I'm willing to hear testimony relating to either one, or both, of these issues.

MR. DUFFY: We have another issue of fact that I think is relevant here.

ADMINISTRATIVE LAW JUDGE: All right. Let's hear it.

MR. DUFFY: In order for stepchildren, or for a child to qualify for dependent benefits, as I understand it, under Title 42, Section 402, Subdivision (d)(1) of the United States Code Annotated, you must show that the child was dependent upon

the wage earner. We contend that there is no -- there has not been any showing of dependency upon the wage earner, and, in addition, the facts do not warrant such a conclusion.

ADMINISTRATIVE LAW JUDGE: All right, then if that is your contention, I am willing to have you submit a brief in which you establish that this is required.

MR. DUFFY: May I respectfully refer you to the Statute, I can show you --

ADMINISTRATIVE LAW JUDGE: Section, what did you say?

MR. DUFFY: It's Title 42, Section 402.

ADMINISTRATIVE LAW JUDGE: That's 202 as far as I'm concerned.

MR. DUFFY: 202(d)(1)(C)

ADMINISTRATIVE LAW JUDGE: Two -- D -- D, one. And have you also read how dependency is established? There is a deemed dependency status which is covered in the later sections.

MR. DUFFY: Yes, but I believe the evidence refutes --

ADMINISTRATIVE LAW JUDGE: Well, did you want to present evidence showing that they weren't -- to defeat the deemed dependency status? I will accept testimony on that.

MR. DUFFY: Sir, they were in fact dependent upon someone else.

ADMINISTRATIVE LAW JUDGE: For the greater part of their support? You'll have to establish what their requirements

for support were, how much was contributed, that it was, in fact, contributed, and that it constituted more than half. I'm prepared to take testimony on that, too. All right, Mrs. Eisenhauer, will you please rise? Raise your right hand.

(The claimant, Marie A. Eisenhauer, having been duly sworn, testified as follows.)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q. Please be seated and give your name and address to the young lady for the record.

A. My name is Maria Eisenhauer. My address is 43 Birchwood Drive, New Hyde Park, New York.

Q. Mrs. Eisenhauer, you have just taken an oath to tell the truth, so that the testimony which you give in connection with this hearing, from this point on, will constitute sworn testimony. I caution you, before any questions are asked of you, not to answer any question that you don't understand. If you don't understand the question, please say so. Mr. Duffy or I, whoever asked the question, will repeat the question, or re-word the question, or re-phrase the question until you do understand it. When you do understand the question, take as much time as you require to think of your answer. Nobody's going to rush you. Nobody's going to hurry you. Of course, when you understand the question and have taken sufficient time to think of your answer, then obviously give your answer. If

you don't know the answer to any question, please say very frankly that you don't know the answer. And, if you have to guess at the answer to some question, then, in some way, indicate that it is a guess. Say, for example, I'm not certain, but I think it was. Or, I can't be sure, but it was approximately, whatever the situation may be. Mrs. Eisenhauer, what is your date of birth?

A. August 29, 1920.

Q. And how much schooling or education have you had?

A. I graduated high school.

Q. Is that the sum total of your education?

A. Twelve years.

Q. But, is that the sum total?

A. Oh, yes.

Q. The only reason I ask is I want the record to show how much education you have as an indication of your ability to understand the questions which are going to be asked of you. Mr. Duffy, since you have raised issues with the facts as established by the record, the burden of proof, of course, is on you to proceed, so I'm going to turn the witness over to you.

DISCUSSION OF EVIDENCE:

MR. DUFFY: Your Honor, I think we may be able to dispose of certain of these factual issues through the introduction of documentary evidence.

ADMINISTRATIVE LAW JUDGE: Any way you want to --

MR. DUFFY: And, may not necessitate the need to ask this witness any questions, and, perhaps, we could proceed first with the documentary evidence.

ADMINISTRATIVE LAW JUDGE: All right. Fine.

MR. DUFFY: If we feel it's necessary, I was going to ask the questions. Before I introduce these documents, I would just like -- just like to request, since we have obtained these at relatively great cost in relation to Mrs. Eisenhauer's means, and since we will need these documents for other Court proceedings, may we introduce the original at this time and substitute a copy for it?

ADMINISTRATIVE LAW JUDGE: Well, I'll tell you what you do. We have a duplicating machine right in the office.

MP. DUFFY: I have copies here.

ADMINISTRATIVE LAW JUDGE: Oh, you've already --

MR. DUFFY: For that purpose. I would like to introduce a certified copy of a judgement of divorce, divorcing Andreas Radauscher and Sonja Radauscher.

ADMINISTRATIVE LAW JUDGE: I'm just comparing to see that they are true copies, and I thought that the pages didn't jibe.

MR. DUFFY: I guess they stuck together.

ADMINISTRATIVE LAW JUDGE: Did you cause these copies to be made, Mr. Duffy?

MR. DUFFY: I did. I made them myself.

ADMINISTRATIVE LAW JUDGE: Do you testify that they are true and accurate copies?

MR. DUFFY: Yes.

ADMINISTRATIVE LAW JUDGE: I won't bother to compare them, because, as an attorney, I am prepared to take your statement. The document is received in evidence and is identified as exhibit number thirty-three.

MR. DUFFY: I would like the Court to take notice of several things. Number one, prior to March 7, 1966, Sonja Radauscher was legally and validly married to Andreas Radauscher.

ADMINISTRATIVE LAW JUDGE: What was that date?

MR. DUFFY: March 7, 1966, prior to that date.

ADMINISTRATIVE LAW JUDGE: Are you talking about the date now of the final decree of divorce?

MR. DUFFY: Right. Now, there is a presumption of New York law that a child is the child of the marriage invalid -- that is, valid marriage in effect at the time of conception. I would like the Court to take judicial notice of the date of Francis Eisenhauer's birth, and the --

ADMINISTRATIVE LAW JUDGE: I will take judicial --

MR. DUFFY: And the presumption available --

ADMINISTRATIVE LAW JUDGE: I will take judicial notice of the fact that Francis Eugene Eisenhauer was, according to

this certificate of birth registration issued, was born on July 27, 1966. Is that what you want me to state for the file?

MR. DUFFY: Yes, I would. Would you prefer that I submit a memorandum with respect to --

ADMINISTRATIVE LAW JUDGE: I think so. This is a legal argument and I think you ought to embody it in the form of a brief.

MR. DUFFY: Request such permission to submit a brief.

ADMINISTRATIVE LAW JUDGE: You will be given permission.

MR. DUFFY: I would also like the Court to take notice of --

ADMINISTRATIVE LAW JUDGE: I'm aware of the presumption, but, of course, you have to submit a brief on the other items, anyhow, and you might just as well cover all the points.

MR. DUFFY: That the decree just submitted into evidence provides that Andreas Radauscher pay seventeen dollars and fifty cents support per week for each of the four Radauscher children.

ADMINISTRATIVE LAW JUDGE: Well, the document speaks for itself. I don't have to take notice of this here.

MR. DUFFY: I would like to call it to the Court's attention. At this point, I would like to submit into evidence a certified copy of a Deed for 100 Puha Road, South Plainfield, Middlesex County, New Jersey. As with the decree, Your Honor, I have personally made a carbon copy.

ADMINISTRATIVE LAW JUDGE: And you vouch for its accuracy.

MR. DUFFY: I vouch that it is a true and complete copy.

ADMINISTRATIVE LAW JUDGE: I'll just take the copy.

MR. DUFFY: I should like the --

ADMINISTRATIVE LAW JUDGE: The document is received in evidence and is identified as exhibit number thirty-four.

MR. DUFFY: I would like the Court to note that exhibit number thirty-four shows that Sonja Eisenhauer is the owner of 100 Puha Road. I would further like the Court to note that the predecessor in title was not the wage earner.

ADMINISTRATIVE LAW JUDGE. And whatever conclusion you're going to draw from that you'll cover in your brief, or what?

MR. DUFFY: I will state in conclusion, at this particular point, and will reiterate it again in my brief, Your Honor, and that is that the four Radauscher children, as I will call them, were receiving support from their natural father, and living in the home of their natural mother.

ADMINISTRATIVE LAW JUDGE: Go right ahead.

MR. DUFFY: I would also like to submit into evidencce, at this time, a certified copy of a mar -- of an application for a marriage license entered into by Francis E. Eisenhauer and Sonja Radauscher, and again, Your Honor, I have made a Xerox copy of

the document, including the clerk's certificate, and I state to the Court that it is a true and complete copy.

ADMINISTRATIVE LAW JUDGE: Yes, I'm just trying to see this portion. It's not very legible, I'll say that.

MR. DUFFY: Regrettably, as Your Honor sees from the original, it is one of the negative copies.

ADMINISTRATIVE LAW JUDGE: Let me see the original so I can mark clearly those portions which did not come through.

MR. DUFFY: To the best of my knowledge, there are very few machines that reproduce --

ADMINISTRATIVE LAW JUDGE: Yes, I know. We might have better luck on our machine because our's is not a Xerox. Agnes, run this through the machine and see what comes out. We'll declare a recess while we're trying to get a clearer copy.

(Following recess)

ADMINISTRATIVE LAW JUDGE: The application for a marriage license, which you have just offered for consideration, is received in evidence and is identified as exhibit number thirty-five.

MR. DUFFY: I would direct the Court's attention to the section marked previous marital status, directly below the section marked groom's residence, and more specifically, that the box never married has been checked.

ADMINISTRATIVE LAW JUDGE: Right. I've noted it.

MR. DUFFY: Since this is an application for a marriage, and had the groom checked --

ADMINISTRATIVE LAW JUDGE: This is a legal argument. Confine it to your brief.

MR. DUFFY: Would Your Honor care to have a statement of the argument at this point?

ADMINISTRATIVE LAW JUDGE: Oh, if you want to.

MR. DUFFY: It would be our contention that, since this application was incorrectly filled out, and had it been correctly filled out, the marriage license --

ADMINISTRATIVE LAW JUDGE: Would not have been issued.

MR. DUFFY: Would not have been issued, and that result -- or rather, the result would have been that there could have been no marriage ceremony of any sort. I would also direct the Court's attention to page two, and following, of exhibit twenty-nine, which is a hand-written letter of Sonja Radauscher.

ADMINISTRATIVE LAW JUDGE: Page two?

MR. DUFFY: Yes. That, I believe, makes it clear that Mrs. Radauscher was fully aware of all the relevant facts at the time she and the wage earner signed this marriage application.

ADMINISTRATIVE LAW JUDGE: I don't see anything on page two of this --

MR. DUFFY: Oh, I see.

ADMINISTRATIVE LAW JUDGE: Maybe I'm wrong.

MR. DUFFY: I think it would be --

ADMINISTRATIVE LAW JUDGE: You want to indicate where, what paragraph.

MR. DUFFY: Well, it was for that reason that I had requested a copy of this letter.

ADMINISTRATIVE LAW JUDGE: Before you --

MR. DUFFY: And would like to include certain quotes from this letter.

ADMINISTRATIVE LAW JUDGE: Go right ahead, but first let's find the portion that you --

MR. DUFFY: Okay.

ADMINISTRATIVE LAW JUDGE: The letter, itself, is in evidence. It's probably on some other page.

MR. DUFFY: She says in April 1, 1966, Francis Eisenhauer and I started living together while he was, of course, legally still married, but had left his wife. That's at the bottom of page one. She says, anyway Francis got his legal separation in July, 1966, it became final. That doesn't seem to be a sentence, but that's what is written here.

ADMINISTRATIVE LAW JUDGE: Yes.

MR. DUFFY: Anyway, in that year, 1966, no one was able to get a legal divorce.

ADMINISTRATIVE LAW JUDGE: The letter, itself, is in evidence. I'm just trying to put the particular phrase that you are saying --

MR. DUFFY: I'm saying that this letter in its entirety constitutes a conscious acknowledgement on the decedent's -- on the --

ADMINISTRATIVE LAW JUDGE: I thought you were referring to a specific declaration, rather than an interpretation. That's all. The letter, itself, speaks for itself.

MR. DUFFY: Yes. And it was for that reason I would like to be in a position, Your Honor, to cite a number of these statements of conscious knowledge, about the fact that --

ADMINISTRATIVE LAW JUDGE: In other words, you want to use it in preparation of your brief.

MR. DUFFY: Yes, Your Honor, I do.

ADMINISTRATIVE LAW JUDGE: Under that circumstance, then, I will grant you copies of them.

MR. DUFFY: Thank you very much.

ADMINISTRATIVE LAW JUDGE: You see, our rules are that you may not have copies of documents, except for use in presenting your claim for social security benefits. If you require them for preparation of your brief, and you so assure me, I will give you a copy of it. And you so assure me, do you not?

MR. DUFFY: Yes, Your Honor. You will find little quotations from that letter.

ADMINISTRATIVE LAW JUDGE: We will declare a recess while this letter is duplicated.

(Following recess)

ADMINISTRATIVE LAW JUDGE: Let the record show that the hearing has been resumed. During the interval -- during the recess -- copies were made of exhibit number twenty-nine, which is a thirteen page exhibit, and a copy was delivered to Mr. Duffy, as the attorney for Marie Eisenhauer. Continue on Mr. Duffy.

MR. DUFFY: Thank you, Your Honor. Your Honor, I believe that we would conclude on these documents at this point, and I do feel --

ADMINISTRATIVE LAW JUDGE: All right --

MR. DUFFY: However, that there is testimony that ought to be presented in this matter by Sonja --

ADMINISTRATIVE LAW JUDGE: All right. As of this moment, I don't know, you see. I'm going to wait for your brief to find out whether -- what the effect would be if the State of Maryland were to grant your application for relief and expunge that matter from its records. I don't know whether it would affect the Social Security Act because it doesn't

bear on that question, as to -- if the record is subsequently expunged. But, if you can find authority to support your position --

MR. DUFFY: It would certainly necessitate the requirement for Sonja Eisenhauer to testify as to the --

ADMINISTRATIVE LAW JUDGE: Testify to what? That she married the man. The record shows that she did. That's the interesting thing. It also shows she was aware of the facts, so what would she testify to.

MR. DUFFY: What record? There would be no record, if it were expunged.

ADMINISTRATIVE LAW JUDGE: Then there is no mar -- no, if we have a -- that there was a marriage is unquestioned. That it was expunged, it would also be a fact. It would not rule out the fact that they went through a marriage ceremony. It would rule out the fact that -- any legal effect that the ceremony would have in the State of Maryland. It would not change the facts that they went through a marriage ceremony, which was subsequently annulled, set aside, vacated or expunged, anyway you want to do it. The fact is, they went through this marriage. That is a fact.

MR. DUFFY: But, what the question really is --

ADMINISTRATIVE LAW JUDGE: Now, what I'm trying -- what I am questioning is, should Maryland expunge the records, this would not alter the fact they went through a marriage ceremony there. What effect would the expunging of the records have

on the Social Security Act? And that's what I want you to submit a brief on.

MR. DUFFY: Well, the question presented is what -- if people recite the words of a marriage ceremony without a marriage license, is that a marriage ceremony?

ADMINISTRATIVE LAW JUDGE: They had their marriage license. They had a marriage license and they were married pursuant -- it was fraudulently obtained --

MR. DUFFY: They did not have a valid marriage license.

ADMINISTRATIVE LAW JUDGE: Yes, that's right. It was fraudulently obtained. Now, the question -- and they went through a marriage ceremony. These are facts. Now, if they expunge their records, those records would no longer show those facts. It's part of their current official record, but it would not change the fact they went through it and did. And, I want to know what effect would expunging the records have on the Social Security Act, if any, concerning the fact, itself, which what they actually did will remain unchanged.

MR. DUFFY: It would change the character of what they did.

ADMINISTRATIVE LAW JUDGE: Mr. Duffy, I will give you an opportunity to submit a brief on the problem. I tell you I don't know the answer.

MR. DUFFY: Which is what I intend to do.

ADMINISTRATIVE LAW JUDGE: Yes, I tell you I don't know the answer and that is why --

MR. DUFFY: Thank you for the opportunity to do that, Your Honor.

ADMINISTRATIVE LAW JUDGE: Now, as far as anything else is concerned, I will have to read your brief on the question of the parents -- parentage, to see what questions it raises. It may very well be she'll have to be given an opportunity to testify as to whether there was access, or opportunity for access. In other words, this is a presumption, and she may be able to rebut it. I don't know. I'll have to give her the opportunity for rebuttal. On the other question of dependency, all you've established so far as I can see, is that this order requires certain payments be made. You haven't established that he made the payments. You haven't established that these payments constituted more than half of each child's support. If you read what the definition of dependency is, you'll see what I'm talking about. That's why I'd like to see your brief.

MR. DUFFY: We've also established that those children were residing --

ADMINISTRATIVE LAW JUDGE: That's right.

MR. DUFFY: With their mother in a home owned by her.

ADMINISTRATIVE LAW JUDGE: That's correct. So you -- as I say, I'll have to see your brief. Then I will determine

whether it raises a question which I must give Sonja Eisenhauer an opportunity to answer.

MR. DUFFY: I would submit to the Court that, when this decree was issued, if the needs of the children were taken into consideration --

ADMINISTRATIVE LAW JUDGE: I have no way of knowing that. I have no -- I have no way of knowing that he ever made the payments. I have no way of knowing what their actual needs were.

MR. DUFFY: We also have a presumption of New York law that that which ought to be done, has been done. If we had a Court order --

ADMINISTRATIVE LAW JUDGE: That's a legal argument which I am prepared to read in your brief, and I will determine how much of that I will accept as a basis of a presumption.

MR. DUFFY: Let me ask you this, Your Honor, if I may. What -- to what extent is this hearing bound by the substantive law in New York as to these issues?

ADMINISTRATIVE LAW JUDGE: By the substantive law of the State of New York, as to family relationship, we are bound by the laws of the State of New York except as modified by the Social Security Act, as you know there's a certain law. Outside of that, no. We set up our own laws of dependency and so forth. And, it's all embodied in the regulations, which is precisely why it's embodied in the regulations. But, you will find that the laws of the various

states differ, and we hopefully attempted to have a uniform application throughout the country. The emphasis is not dependent upon where they happen to live at a particular time.

MR. DUFFY: What I had in mind was, for instance, a presumption which does not deal with family relationship, such as the continuance of the status, which is a recognized presumption in this state.

ADMINISTRATIVE LAW JUDGE: It will depend on the circumstances in a case. I couldn't give you a hard and fast answer. As you know, that particular presumption is not uniformly followed in any state court either. It depends on the circumstances to which they're applied. That's the only way I can answer your question, and you know I'm correct in saying that.

MR. DUFFY: I didn't disagree with you.

ADMINISTRATIVE LAW JUDGE: I know, so I can't say I will follow-up, when it depends entirely on the circumstances under which they're applied. Is there anything else I can --

MR. DUFFY: Your Honor, I have no further documents.

ADMINISTRATIVE LAW JUDGE: All right. I pointed out what I'd like covered in the brief and what I'm particularly interested in. The paternity. The dependency issue. I'm pointing out to you it's not completely satisfied by the mere direction that the payments be made. You must show that they were made and what the expenses were, how much of their expenses those payments,

if made, infer -- what proportion, because if this only took care of, let's say, one-third of their expenses, and Francis Eisenhauer paid two-thirds or fifty-five per cent, or any greater proportion, let's put it that way, they might -- they could equally -- they could have depended on Francis for a greater part of their support.

MR. DUFFY: Do you not have copies of the wage earner's 1969 Federal Income Tax Return, annexed to one of the documents which is an exhibit?

ADMINISTRATIVE LAW JUDGE: Well, I may very well have it. I'll take a look and see.

MR. DUFFY: The reason why I asked that question is that I just --

ADMINISTRATIVE LAW JUDGE: Here, look through the exhibits. Is it there?

MR. DUFFY: I believe it's annexed to one of Mrs. Eisenhauer's letters.

ADMINISTRATIVE LAW JUDGE: Marie Eisenhauer's.

MR. DUFFY: Marie Eisenhauer's. The reason why I said that, I'm trying to understand what standard --

ADMINISTRATIVE LAW JUDGE: 1969. Yes, I have it. It's part of exhibit number twenty-eight.

MR. DUFFY: And I would -- I would, of course, call your attention to that --

ADMINISTRATIVE LAW JUDGE: You can do it if you prefer --

MR. DUFFY: To that -- where --

ADMINISTRATIVE LAW JUDGE: What you're giving me is oral argument and what I'm really asking you to do is put it in your brief because then I can study it at leisure, I can appreciate the points, go back and refer to this, come back to your brief. You know how you will review a brief.

MR. DUFFY: Of course. Your Honor will note that those four individuals are not claimed as dependents on this tax return.

ADMINISTRATIVE LAW JUDGE: Make a note of that in your brief and point it out as one of your points.

MR. DUFFY: We would also ask for information concerning the validity of the license, since it might affect the actions taken by --

ADMINISTRATIVE LAW JUDGE: What I'm saying is that, assuming you are successful in expunging the record, I don't know what effect it will have as far as social security is concerned, when the facts are unchanged. The recordation of those facts may be expunged, but the facts, themselves, are unchanged. They did get their marriage license. They did go through a marriage ceremony, which was not a valid and not a legal one, and nobody contends that it was. So having the Court officially declare that it was neither a valid, nor legal, and expunging it from the record, so far as I can see, may not have any bearing on the Social Security Act.

MR. DUFFY: It may very well be --

ADMINISTRATIVE LAW JUDGE: It may be that it will.

MR. DUFFY: The fact of a court entertaining jurisdiction when it has none.

ADMINISTRATIVE LAW JUDGE: That's what I want you to point out that -- to establish that it would affect their situation under the Social Security Act. Because, you see, what actually happened will not affect it. And, that's what I'm dealing with -- facts. Now, you said you wanted to bring out some additional facts or situations. You wanted Mrs. Eisenhauer to testify?

MR. DUFFY: I had suggested that, if at the conclusion of the introduction of these documents, that if there were a need of Mrs. Eisenhauer's testimony, we should take it then. I have no need for it.

ADMINISTRATIVE LAW JUDGE: I have no need for it, because, as I said, it is a question of law primarily, and your brief will --

MR. DUFFY: Will deal with these issues.

ADMINISTRATIVE LAW JUDGE: Will deal with those issues. And, if after reading it, it raises a serious problem in my mind, I will then arrange for another hearing at which Sonja Eisenhauer will be given a chance to answer whatever the questions that are raised by your brief require answering. You understand? Now, how long a period of time do you wish to submit this brief?

MR. DUFFY: Your Honor, what do you feel would be an appropriate --

ADMINISTRATIVE LAW JUDGE: You're the one doing the work. How long a period of time do you want to work on it?

MR. DUFFY: May I have thirty days?

ADMINISTRATIVE LAW JUDGE: Certainly. Today is the eighteenth of May, and thirty days would make it, let's say, we'll give you until the twenty-second of June, which is more.

MR. DUFFY: Thank you, Your Honor.

ADMINISTRATIVE LAW JUDGE: All right, we'll give you until the twenty-second of June.

MR. DUFFY: Your Honor knows, in this business, very frequently you just find yourself having more and more briefs to write and less and less --

ADMINISTRATIVE LAW JUDGE: Well, as I say, Mr. Duffy, if by June 22nd you find that you haven't completed your brief and you require more time, write to me, or call my office up and ask for an extension of time. You better write to me because I need something for the record for an extension of time, and ask for an extension of time and it will be granted.

MR. DUFFY: Thank you, Your Honor.

ADMINISTRATIVE LAW JUDGE: But, I will say this to you. If, by June 22nd, I have neither received the brief, nor a request for an extension of time, I will assume that there will

be no brief forthcoming, and let's make no misunderstanding about that, because it has happened in the past that the date has gone by and I overlooked it. That's unfortunate. You're being told right now that, by June 22nd, I either have the brief or a request for an extension of time.

MR. DUFFY: We have a docket control system in our office --

ADMINISTRATIVE LAW JUDGE: Check it, check it.

MR. DUFFY: I hope this is not going to be the time where it fails. I doubt it.

ADMINISTRATIVE LAW JUDGE: The record will show that you were forewarned, put it that way.

MR. DUFFY: Yes.

ADMINISTRATIVE LAW JUDGE: Is everything clear at this time? Or, do you want to present a closing argument, or what?

MRS. EISENHAUER: I'm very concerned about, not only my sons' benefits, but my benefits. Should there be another adverse decision, do I have to wait until --

ADMINISTRATIVE LAW JUDGE: Let me say this, Mrs. Eisenhauer. The law provides a certain maximum amount, which can be paid out in a family benefit. How much each individual in the family gets, depends on how many people there are claiming a portion of the pie. Does that answer your question?

MRS. EISENHAUER: It does.

MR. DUFFY: I think what Mrs. Eisenhauer's request was directed towards was the seeming length of time it took between the date on which she requested her review and the date on which the review was actually --

ADMINISTRATIVE LAW JUDGE: Well, no. Quite often --

MR. DUFFY: Administrative difficulty is --

ADMINISTRATIVE LAW JUDGE: It can't be helped.

MR. DUFFY: We can appreciate --

ADMINISTRATIVE LAW JUDGE: Quite obviously, Mrs. Eisenhauer, your's is not the only --

MRS. EISENHAUER: No, it's more serious than that. I'm asking do I have to wait until all the children reach eighteen years old?

ADMINISTRATIVE LAW JUDGE: For what?

MRS. EISENHAUER: To have my full benefit as the legal widow. I mean this is if there'a an adverse decision.

ADMINISTRATIVE LAW JUDGE: I'm not prepared to answer that because I don't know what my decision will be at that time.

MRS. EISENHAUER: I believe I will have reached the age where I would be entitled --

ADMINISTRATIVE LAW JUDGE: Mrs. -- I can't answer that for you here.

MRS. EISENHAUER: All right.

MR. DUFFY: It's no issue here.

ADMINISTRATIVE LAW JUDGE: It's not an issue here, and our set-up is such that I would prefer not to answer if I knew it because you would have to apply through the district office. The payment center would have to make the decision. If you didn't like the decision, you'd have a right to request reconsideration. If you didn't like the decision after reconsideration, it might bounce up again here, and I've already committed myself by telling you what the answer is. Do you understand?

MRS. EISENHAUER: Yes.

ADMINISTRATIVE LAW JUDGE: I think you can explain that to Mrs. Eisenhauer.

MR. DUFFY: The situation I'd love to have.

ADMINISTRATIVE LAW JUDGE: If there's nothing further to be said at this time, and no additional testimony to be presented, I will close the hearing, subject, of course, to the possibility that it may have to be re-opened to take additional testimony from Sonja Eisenhauer, if I should so decide. And, I've already told you that, if so, that hearing will be held in New Jersey, where our offices -- you will be advised of the hearing, and you now wish to attend. However, I will make no decision in connection with this matter, whether I'm going to take testimony from Sonja Eisenhauer, or decide it on the merits, as I see -- as I review your brief. And I will give that very serious consideration, obviously.

MR. DUFFY: May I just inquire now whether you would be sitting at the time of this subsequent hearing, if it were --

ADMINISTRATIVE LAW JUDGE: No, I will not. No.

MR. DUFFY: I see.

ADMINISTRATIVE LAW JUDGE: The questions will be outlined to the Judge there and he will go over this stuff.

MR. DUFFY: And will Mrs. Marie Eisenhauer have the opportunity to have Counsel present to cross-examine any witness who may testify?

ADMINISTRATIVE LAW JUDGE: Yes, yes.

MR. DUFFY: Thank you, Your Honor.

ADMINISTRATIVE LAW JUDGE: Does that answer your question?

MR. DUFFY: Yes, it does.

ADMINISTRATIVE LAW JUDGE: With that understanding then, the hearing, as of this moment, is closed and I thank you both for attending.

MRS. EISENHAUER: Thank you.

MR. DUFFY: Thank you, Your Honor.

ADMINISTRATIVE LAW JUDGE: The record is re-opened this sixteenth day of July, 1973 at Smithtown, New York, to receive into evidence exhibit number thirty-six, letter from the claimant's attorney, dated July 11, 1973, forwarding Memorandum

of Law, together with the additional exhibits mentioned in that letter, consisting of thirteen pages.

There being nothing further, the record is hereby closed, this sixteenth day of July, 1973.

## CERTIFICATION

I have read the foregoing transcript and hereby certify that it is a true and complete record of the hearing.

Agnes Lawrence

Hearing Assistant

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

Form Approved.
Budget Bureau No. 72-R0094.

(Do not write in this space)

MINEOLA, N. Y. 11501
98
JUN 29 1970
21138
SSA DISTRICT OFFICE

# APPLICATION FOR MOTHER'S INSURANCE BENEFITS*

If you are applying as a widow, the information you furnish on this application will ordinarily be sufficient for a determination on the lump-sum death payment without the filing of any separate application.

NOTICE—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a $1,000 fine or 1 year of imprisonment, or both.

| Enter name of deceased wage earner or self-employed person (*Herein referred to as the "deceased"*) | Enter his Social Security Number |
|---|---|
| Francis Eisenhauer | 130 \| 18 \| 7297 |
| **Enter your full name** | **Enter your Social Security Number** (*If none or unknown, so indicate*) |
| Maria (aka Mary) Eisenhauer | 053 \| 12 \| 9545 |

I hereby apply for all insurance benefits payable to me under Title II of the Social Security Act, as amended.

| | | |
|---|---|---|
| 1 | Enter your date of birth (*Show month, day, and year*) 8/29/20 | Enter the name of the State or foreign country where you were born NY |
| 2 | Enter your maiden name Albanese | |

3 (a) Have you ever before filed an application with the Social Security Administration for monthly benefits?
☐ YES (*If "Yes," answer (b) and (c) below*) ☒ NO (*If "No," go on to item 4*)

| (b) Enter name of person on whose earnings record you filed other application | (c) Enter Social Security Number of person named in (b) (*If unknown, so indicate*) |
|---|---|
| | ___ \| __ \| ____ |

4 (a) If you are age 50 or over, are you now or have you been for any period in the past 14 months unable to work because of a disabling condition?
☐ YES (*If "Yes," answer (b)*) ☐ NO (*If "No," go on to item 5*)

(b) Enter date on which your disabling condition began. ⟶ Month, day, year

5 Enter below information about each of your marriages. Include information on your marriage to the deceased and any other marriages, whether before or after you married the deceased.

| | To whom married | When (*Mo., day, and year*) | Where (*Enter name of city and State*) |
|---|---|---|---|
| Your last marriage | Francis Eisenhauer | 1/13/51 | Bklyn NY |
| | How marriage ended: Death | When (*Mo., day, and year*): this case | Where (*Enter name of city and State*) |
| Your previous marriage | To whom married | When (*Mo., day, and year*) | Where (*Enter name of city and State*) |
| | How marriage ended | When (*Mo., day, and year*) | Where (*Enter name of city and State*) |
| Your previous marriage | To whom married | When (*Mo., day, and year*) | Where (*Enter name of city and State*) |
| | How marriage ended | When (*Mo., day, and year*) | Where (*Enter name of city and State*) |

(*Use "Remarks" space on back page for information about any other previous marriage*)

*This may also be considered an application for survivors benefits under Section 5 of the Railroad Retirement Act and for Veterans Administration payments under Title 38 U.S.C., Veterans Benefits, Chapter 13 (which is, as such, an application for other types of death benefits under Title 38).

FORM SSA-5 (1-70) (OVER)

EXHIBIT NO. 1 (Page 1 of 4)

6 Check (✓) whether your marriage to the deceased was performed by: 99.
Clergyman or authorized public official ☑ or Other ☐ ..... (Explain)

Enter below the information requested about each marriage of the deceased, including his marriage to you. (Indicate your marriage to the deceased by entering your name; it is not necessary to repeat other information about this marriage you have already given in item 5.) Enter complete information on all other marriages.

| | To whom married | When (Mo., day, and year) | Where (Enter name of city and State) |
|---|---|---|---|
| Last marriage of the deceased | Maria Albanese | | |
| | How marriage ended | When (Mo., day, and year) | Where (Enter name of city and State) |
| Previous marriage of the deceased | To whom married | When (Mo., day, and year) | Where (Enter name of city and State) |
| | How marriage ended | When (Mo., day, and year) | Where (Enter name of city and State) |
| Previous marriage of the deceased | To whom married | When (Mo., day, and year) | Where (Enter name of city and State) |
| | How marriage ended | When (Mo., day, and year) | Where (Enter name of city and State) |

(Use "Remarks" space for information about any other marriage)

Answer item 8 only if you are the widow.

8 (a) Were you and the deceased living together at the same address when he died? ..... ☐ YES ☑ NO

(b) If either you or the deceased were away from home (whether or not temporarily) when he died, give the following:

Who was away? ☐ You ☑ Deceased

Date last home: 9/7/65

Reason absence began: mental cruelty abandonment + insufficient support

Reason you were apart at time of death: (same)

If hospitalized, enter name of hospital and nature of illness or disabling condition

Answer item 9 only if you were divorced from the deceased.

9 (a) Was the deceased under a court order to contribute to your support? ..... ☐ YES ☐ No

(b) Was the deceased contributing to your support? ..... ☐ YES ☐ NO

EXHIBIT NO. 1 (Page 2 of 4)

**Please read carefully before answering item 10**

You may receive a mother's benefit for any month in which you have in your care a child of the deceased entitled to a child's insurance benefit because he (she) is:

- under age 18, or
- disabled (age 18 or over and disability began before age 18)

100

If you are filing as a surviving divorced mother, such child must be your son, daughter, or legally adopted child who is entitled to child's benefits on the deceased's earnings record.

Mother's benefits are not payable if the only child in your care is a child age 18 to 22 entitled to benefits as a full-time student.

10 Has an unmarried child of the deceased (including natural child, adopted child, or stepchild) who is under 18 or disabled lived with you during any of the months in the period beginning with the month of death and ending with the present month (inclusive)? ..... ☑ YES ☐ NO

*(If "YES," enter the information requested below)*

| Name of child | Months child lived with you *(If all, write "All")* |
|---|---|
| Brian T. Eisenhauer | all |
| Francis X " | |

**Please read the following information before going on to items 11 and 12**

Some or all of your benefits are not payable if you earn more than $1,680 in a year.* If earnings are more than $1,680, benefits may be withheld for any month in which you earn more than $140 in wages or perform substantial services in self-employment. Count the gross wages (not the take-home pay) earned during the year, regardless of when the wages are paid. Count the net earnings from self-employment (after deducting allowable business expenses). Include all earnings from employment and self-employment whether or not the work is covered by social security.

Answer item 11 only if the deceased died before this year.

11 (a) How much were your total earnings last year? ..... $ 0

*If the total is more than $1,680, answer (b). If less, omit (b) and (c) and go on to item 12.*

(b) Did you earn more than $140 in employment or perform substantial services in self-employment in each month of last year?

☐ YES *(If "YES," omit (c))* ☐ NO *(If "NO," answer (c))*

(c) Circle each month of *last year* in which you did not earn more than $140 in employment *and* did not perform substantial services in self-employment.

Jan Feb Mar Apr May June July Aug Sept Oct Nov Dec

12 (a) How much do you expect your total earnings to be this year? (Count all earnings beginning with the first of this year and all anticipated earnings through the end of this year) ..... $ 0

*If the total is more than $1,680, answer (b). If less, omit (b) and (c).*

(b) Have you earned more than $140 in employment or performed substantial services in self-employment in each of the months of this year including the present month?

☐ YES *(If "YES," omit (c))* ☐ NO *(If "NO," answer (c))*

(c) Circle each month of *this year* including the present month in which you did not earn more than $140 in employment *and* did not perform substantial services in self-employment.

Jan Feb Mar Apr May June July Aug Sept Oct Nov Dec

* The yearly period referred to in this and following items is the same 12-month period you use in figuring your income tax. If you use a fiscal year, that is, a taxable year that does not end December 31 (with income tax return due April 15), enter here the month your fiscal year ends. Month

Act 50 4 cf (OVER) on 6-75

EXHIBIT NO. 1 (Page 3 of 4)

An annual report of earnings must be filed with the Social Security Administration within 3 months and 15 days after the end of any year in which you earned more than $1,680 and received some benefit payment for a month in that year. FAILURE TO REPORT MAY RESULT IN THE LOSS OF ONE OR MORE MONTHLY BENEFITS.

13 Do you agree to file the annual report of earnings when required? ..... ☒ YES ☐ NO

YOU MUST NOTIFY THE SOCIAL SECURITY ADMINISTRATION PROMPTLY IF:

- You MARRY
- You NO LONGER HAVE IN YOUR CARE a child of the deceased entitled to benefits because he (she) is under 18 or disabled.

Benefits may end if either of the above events occurs. However, there are certain exceptions which are explained in the informational booklet which you will receive. You must report each of these events even if you believe an exception applies. We will advise you whether additional evidence is needed and how your benefits may be affected.

14 Do you agree to notify the Social Security Administration promptly if either of the above events occurs, and to promptly return any benefit check you receive if the check is for a month in or after the month in which the event occurred? ..... ☒ Yes ☐ No

REMARKS: (*You may use this space for any explanations. If you need more space, attach a separate sheet.*)

We were only legally separated. I was never served with any divorce papers, nor did I serve him.

I know that anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law. I affirm that the above statements are true.

| SIGNATURE OF WITNESSES | SIGNATURE OF APPLICANT |
|---|---|
| If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses. | Signature (*First name, middle initial, last name*) (*Write in ink*) |
| 1. Signature | Sign Here ▶ /Maria A. Eisenhauer |
| Address (*Number and street, city, State and ZIP Code*) | Mailing Address (*Number and street, Apt. No., P.O. box, or Rural Route*) 43 Birchwood Drive |
| 2. Signature | City and State: New Hyde Pk, NY — ZIP Code: 11040 |
| Address (*Number and street, city, State and ZIP Code*) | Date (*Mo., day and year*) 6/29/70 — Telephone number 741-2945 |
| | Enter name of county (*if any*) in which you now live: Nassau |

EXHIBIT NO. 1 (Page 1 of 4)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

Form Approved.
Budget Bureau No. 72-R0127

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JUN 29 1970
21138
SSA DISTRICT OFFICE

# APPLICATION FOR SURVIVING CHILD'S INSURANCE BENEFITS*

NOTICE—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a $1,000 fine or 1 year of imprisonment, or both.

| Enter Name of Deceased Wage Earner or Self-Employed Person (*Herein referred to as the "deceased"*) | (*Check one*) | Enter His Social Security Number |
|---|---|---|
| Garnett Eisenhauer | ☑ Male ☐ Female | 130 \| 18 \| 7297 |

Enter Your Full Name Maria (aka Mary) Eisenhauer

I hereby apply, on behalf of the child or children listed in item 9 below, for all insurance benefits payable to them under Title II of the Social Security Act, as amended. (*If you are applying on your own behalf, answer the questions in Part II of this form with respect to yourself.*)

## PART I—INFORMATION ABOUT THE DECEASED

1. Enter the date of birth of the deceased (*Month, Day and Year*) 2/24/24

2. Enter the date and place of death (*Month, Day and Year*) 6/9/70 (*City and State*) Warwick R.I.

3. Enter the name of the state or foreign country where the deceased had his fixed, permanent home at the time of his death. → State or Foreign Country New Jersey

4. (a) Was the deceased in active military or naval service after September 7, 1939? ☑ Yes ☐ No
(*If "Yes," answer (b) and (c). If "No," go on to item 5.*)

(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.
July 1943 - June 1946

(c) Has anyone (including the deceased) received, or does anyone expect to receive, from any Federal agency other than the Social Security Administration, a benefit based on the employment, military service, disability, or death of the deceased? ☑ Yes ☐ No
(*If "Yes," enter name(s) of such person(s) and name(s) of Federal agency(ies).*)
My self & children - V.A.

5. Did the deceased work in the railroad industry at any time on or after January 1, 1937? ☐ Yes ☐ No

6. • Enter the names and addresses of all the persons, companies or government agencies for whom the deceased worked during the 12 months before death. (*If none, write "None"*)
• If the deceased worked in agricultural employment, give this information for the year of death and the year before.

| NAME AND ADDRESS OF EMPLOYER (*If the deceased had more than one employer, please list them in order beginning with last (most recent) employer.*) | WORK BEGAN Month | WORK BEGAN Year | WORK ENDED Month | WORK ENDED Year |
|---|---|---|---|---|
| Sulton Industries, Meiztchen, N.J. (Electrical engineer & Sales Engineering) | | | 6 | 70 |
| | | | | |

*Use "Remarks" space on last page for information about any other employers.*

7. (a) Was the deceased self-employed this year, last year, or the year before?
☐ Yes (*If "Yes," answer (b).*) ☑ No (*If "No," go on to item 8.*)

| (b) Check the year or years in which the deceased was self-employed | In what kind of trade or business was the deceased self-employed? | Were the deceased's net earnings $400 or more? |
|---|---|---|
| ☐ This Year | | ☐ Yes ☐ No |
| ☐ Last Year | | ☐ Yes ☐ No |
| ☐ Year Before Last | | ☐ Yes ☐ No |

* This may also be considered an application for survivors benefits under section 5 of the Railroad Retirement Act and for Veterans Administration payments under Title 38 U.S.C., Veterans Benefits, Chapter 13, (which includes application for other types of death benefits under Title 38).

EXHIBIT NO. 2 (Page 1 of 4)

8. (a) About how much did the deceased earn from employment and self-employment during the year in which he died? → Amount $ unk 10.5

*If death occurred this year, answer (b). If not, go on to item 9.*

(b) About how much did the deceased earn last year? → Amount $ unk

**PART II—INFORMATION ABOUT SURVIVING CHILDREN OF THE DECEASED**

9. Are there ANY surviving children (including natural children, adopted children and stepchildren) who, at any time since the parent died, were UNMARRIED and:

- UNDER AGE 18 ☒ Yes ☐ No
- AGE 18 TO 22 AND ATTENDING SCHOOL ☐ Yes ☐ No
- DISABLED (age 18 or over and disability began before age 18) ☐ Yes ☐ No

*(List ALL such children in order of birth beginning with the oldest.)*

| | CHECK (✓) SEX OF CHILD | | DATE OF BIRTH (Mo., day, yr.) | Check (✓) If Child 18 or Over is Student or Disabled | | Check (✓) the Column That Shows Child's Relationship to Worker | | | |
|---|---|---|---|---|---|---|---|---|---|
| | M | F | | Student | Disabled | Legitimate | Adopted | Stepchild | Other |
| FULL NAME OF CHILD: Francis X Eisenhauer<br>CHILD'S SOCIAL SECURITY NUMBER: none | ✓ | | 10/5/58 | | | ✓ | | | |
| FULL NAME OF CHILD: Brian F. Eisenhauer<br>CHILD'S SOCIAL SECURITY NUMBER: none | ✓ | | 1/13/55 | | | ✓ | | | |
| FULL NAME OF CHILD<br>CHILD'S SOCIAL SECURITY NUMBER | | | | | | | | | |
| FULL NAME OF CHILD<br>CHILD'S SOCIAL SECURITY NUMBER | | | | | | | | | |

*If you are not applying for any child you name, enter the child's name under "Remarks" (page 4 of this form) and explain why you are not applying for such child. You may apply for a child even though you do not wish to be the payee for the child's benefits.*

10. Enter below your relationship to each of the children named in item 9. (For example, mother, adoptive father, stepmother, myself, uncle, sister, none, etc. If you are related in the same way to all the children, write "All" and then show your relationship.)

| Name of Child(ren) | Your Relationship | Name of Child(ren) | Your Relationship |
|---|---|---|---|
| Brian, Francis | Mother | | |
| | | | |

11. If any children in item 9 are stepchildren of the deceased, enter the date the deceased married the natural parent. → Date of Marriage

12. Have any children in item 9 ever been adopted by someone other than the deceased? ☐ Yes ☒ No

*(If "Yes," enter the following information:)*

| Name of Child | Name of Person Adopting | Relationship, if any, before adoption | Date of Adoption |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

EXHIBIT NO 2 (Page 2 of 4)

13. Were all the children in item 9 living with the deceased at the time of death? ☐ Yes ☑ No
*(If "No," enter the following information about each child who was not living with the deceased.)*

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| Name of Child Not Living With Deceased | Person With Whom Child Was Living | |
|---|---|---|
| | Name and Address | Relationship to Child |
| Brian | Maria Eisenhauer 43 Birchwood Ln New Hyde Park, NY 11040 | Mother |
| Francie | | |

14. Are all the children in item 9 now living in the same household with you? ☑ Yes ☐ No
*(If "No," enter the following information about each child not living with you. If uncertain as to the whereabouts of any of these children, explain under "Remarks" on last page.)*

| Name of Child Not Living With You | Person With Whom Child Now Lives | |
|---|---|---|
| | Name and Address | Relationship to Child |
| | | |
| | | |

15. Has any child in item 9 ever been married? ☐ Yes ☑ No
*(If "Yes," enter the information requested below.)*

| Name of Child | Date of Marriage (*Month, Day, Year*) |
|---|---|
| How Marriage Ended (*If still married write "Not Ended"*) | Date Marriage Ended (*Month, Day, Year*) |

16. Has anyone ever before filed an application with the Social Security Administration for monthly benefits on behalf of any child in item 9? ☐ Yes ☑ No
*(If "Yes," enter name and social security number of person on whose earnings record any other claim was based.)*

| Name of Wage Earner or Self-Employed Person | Social Security Number (*If unknown, so indicate*) |
|---|---|
| | |

17. Do you understand that all payments made to you on behalf of a child must be spent for his present needs or (if not presently needed) saved for his future needs, and do you agree to use the benefits that way? ☑ Yes ☐ No

18. Do you agree to notify the Social Security Administration promptly when your address and/or the address of any child is changed or if you no longer have responsibility for the welfare and care of any child for whom you are filing? ☑ Yes ☐ No

If you are applying ONLY for a child age 18 or over who is disabled, you may omit items 19, 20, and 21 and go on to item 22. In all other cases, items 19, 20 and 21 must be answered.

**Please read the following information before going on to Item 19.**

Some or all of a child's benefits may not be payable if the child earns more than $1,680 in a year.* If he earns more than $1,680, benefits may be withheld for any month in which he earns more than $140 in wages or performs substantial services in self-employment. Count the gross wages (not the take-home pay) earned during the year, regardless of when the wages are paid. Count the net earnings from self-employment (after deducting allowable business expenses). Include all earnings from employment and self-employment, whether or not the work is covered by social security.

19. (a) Do you expect the total earnings of any child to be more than $1,680 this year? (Count all earnings beginning with the first of this year and all anticipated earnings through the end of this year.) ☐ Yes ☑ No
*(If "Yes," answer (b). If "No," go on to item 20)*

| (b) Name of Child Who Expects To Earn Over $1,680 This Year | Expected Earnings | List Each Month (*including the present month*) That Child Did Not Earn More Than $140 In Employment and Did Not Perform Substantial Services in Self-Employment |
|---|---|---|
| | $ | |
| | $ | |

* The yearly period referred to in this and subsequent items is the same 12-month period used in figuring income taxes. If any of the children for whom you are filing use a fiscal year (one that does not end on December 31), enter here the name of the child and the month the fiscal year ends.

Name of Child and Month Fiscal Year Ends

(Over)

EXHIBIT NO. 2 (Page 3 of 4)

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0. Complete this item only if the deceased died before this year.
(a) Did any child earn more than $1,680 last year? ☐ Yes ☐ No

(If "Yes," answer (b). If "No," go on to item 21.)

| (b) Name of Child Who Earned Over $1,680 Last Year | Total earnings of child | List each month that child did not earn more than $140 in employment and did not perform substantial services in self-employment |
|---|---|---|
| | $ | |
| | $ | |

An annual report of earnings must be filed with the Social Security Administration within 3 months and 15 days after the end of any year in which any child earned more than $1,680 and received some benefit payment for a month in that year. FAILURE TO REPORT MAY RESULT IN THE LOSS OF ONE OR MORE MONTHLY BENEFITS.

21. Do you agree to file the annual report of earnings when required? ☒ Yes ☐ No

YOU MUST NOTIFY THE SOCIAL SECURITY ADMINISTRATION PROMPTLY IF:

- Any child MARRIES, DIES, or is ADOPTED
- A student, age 18 to 22, STOPS ATTENDING SCHOOL, REDUCES HIS SCHOOL ATTENDANCE BELOW FULL-TIME, CHANGES SCHOOLS, or IS PAID BY HIS EMPLOYER TO ATTEND SCHOOL
- A disabled child, age 18 or over, DISABLING CONDITION IMPROVES, GOES TO WORK, or if now hospitalized is DISCHARGED FROM THE HOSPITAL.

Benefits may end if any of the above events occur. However, there are certain exceptions which are explained in the informational booklet which you will receive. You must report each of these events even if you believe an exception applies. We will advise you whether additional evidence is needed and how the benefits may be affected.

22. Do you agree to notify the Social Security Administration promptly if any of the above events occur, and to promptly return any benefit check you receive for a child which is not due? ☒ Yes ☐ No

Remarks: (*You may use this space for any explanations. If you need more space, attach a separate sheet.*)

I know that anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law. I affirm that the above statements are true.

| SIGNATURE OF WITNESSES | SIGNATURE OF APPLICANT |
|---|---|
| If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses. | Signature (*First name, middle initial, last name*) (*Write in ink*) |
| 1. Signature | Sign Here ▶ Maria A. Eisenhauer |
| Address (*Number and Street, City, State and ZIP Code*) | Mailing Address (*Number and Street, Apt. No., P.O. Box, or Rural Route*) 43 Birchwood Dr. |
| 2. Signature | City and State: New Hyde Pk, NY — ZIP Code: 11040 |
| Address (*Number and Street, City, State and ZIP Code*) | Date (*Mo., day and year*) 6/29/70 — Telephone number 741-2945 |
| | Enter name of county (*if any*) in which you now live: Nassau |

EXHIBIT NO. 2 (Page 4 of 4)

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

CLAIM NUMBER
130-18-7297 E & C

# Certificate of Social Insurance Award

106

DATE 11/3/70

THIS IS TO CERTIFY THAT THE PERSON(S) NAMED BELOW BECAME ENTITLED TO THE INSURANCE BENEFITS SHOWN PAYABLE UNDER TITLE II OF THE SOCIAL SECURITY ACT

| NAME AND ADDRESS OF PAYEE AS THE CLAIMANT OR AS REPRESENTATIVE OF THE CLAIMANT | DATE OF ENTITLEMENT | MONTHLY BENEFIT | AMOUNT OF FIRST CHECK |
|---|---|---|---|
| Marie A Eisenhauer<br>43 Birchwood Dr<br>New Hyde Park, NY 11040 | 6/70 | $120.60 | $482.40 |
| TYPE OF BENEFIT: Mother & Child | | | |
| Francis X.<br>Brian F. | | $120.60<br>120.60 | $964.80 |

7 79

The right to receive social security benefits carries with it certain responsibilities. They are explained in the booklet furnished you. Read this booklet carefully. Be sure that you understand clearly what you can expect by way of benefits, and what is to be expected of you. If you have any questions or wish additional information about your benefits, please get in touch with any social security office. Most questions can be handled by telephone or mail. If you visit the office, however, please take this Certificate with you.

EXHIBIT NO. 3 (Page 1 of 1)

NOTICE. If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make your request through any social security office. If additional evidence is available, you should submit it with your request.

Robert M. Ball

ROBERT M. BALL
COMMISSIONER OF SOCIAL SECURITY

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
PAYMENT CENTER
FLUSHING, NEW YORK 11368

107

REFER TO 130-18-7297 E C1
F E Eisenhauer

BUREAU OF RETIREMENT AND SURVIVORS INSURANCE

May 19, 1972

Maria A. Eisenhauer
43 Birchwood Dr
New Hyde Park NY 11040

Dear Mrs. Eisenhauer :

Our records show you received $ 1328.50 more in Social Security benefits than you should have. Due to the entitlement of other beneficiaries on this account, you and your children were only due $60.30 each for September 1970 through December 1970, $66.40 each for January 1971 through March 1972 and $39.90 for April 1972. Since you received $120.60 each for September 1970 through December 1970 and $132.70 each for January 1971 through April 1972, you were overpaid $1328.50. The children were overpaid $2657.00. Effective with your May 1972 check dated June 3, 1972, your monthly check will be for $39.90 and the children's monthly check will be for $79.80. The children's overpayment is $2657.00.

If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make any such request through any Social Security office. If additional evidence is available, you should submit it with your request.

To recover the overpayment, we shall withhold your benefits beginning with the check you would normally receive in September 1972. The next check that you will receive after the full overpayment has been withheld will be for $ 28.10. It will be sent to you about June 3, 1975. Thereafter, your regular monthly benefits of $ 39.90 will be resumed. We will withhold benefits due the children for August 1972 through April 1975 and part of May 1975 to recover their overpayment.
Under Social Security law, any overpayment must be withheld from benefits or paid back unless both of the following are true:

1. The overpayment was not your fault in any way and you cashed the check (or checks) because you thought they were correct, and

EXHIBIT NO. 4 (Page 1 of 1)
(over)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

Form Approved.
Budget Bureau No. 72-R0552

(Do not write in this space)

# REQUEST FOR RECONSIDERATION

| NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON | SOCIAL SECURITY CLAIM NUMBER |
|---|---|
| FRANCIS EISENHAUER | 130-18-7291 EBC |

NAME OF CLAIMANT
Maria A Eisenhauer, Brian & Francis Eisenhauer

CLAIM FOR (Specify type, e.g., retirement, disability, hospital insurance, etc.)
Survivor's Benefits.

[illegible], N. Y.
108
JUL 11 1972
21138
SSA ASSISTANT OFFICE

I do not agree with the determination made on the above claim and request reconsideration.

My reasons are: I feel myself & my two sons are the only ones who should receive benefits on my husband's record. I am filing this to have his other "children" & "step-children" removed from your records & therefore not receive any checks based on fact that there was never a valid marriage. She is getting support for the 4 children from their natural father. I was advised that there other 7 children were in "suspense" some time of my husband's death - Why are they receiving checks two years later

NOTE: If the date of the notice of the determination on this claim was more than six months ago include your reason for not making this request earlier.

I am submitting the following additional evidence (*If none, write "None."*):

None

| SIGNATURE OF WITNESSES ONLY | SIGNATURE (*Write in Ink—First, Middle Initial, Last Name*) |
|---|---|
| If this request has been signed by mark (X), two witnesses who know the person requesting reconsideration must sign below, giving their full addresses. | Maria A. Eisenhauer |
| 1. NAME | |
| ADDRESS (*Number and Street, City, State and Zip Code*) | MAILING ADDRESS (*Number and Street, P.O. Box or Route*) 43 BIRCHWOOD DRIVE |
| 2. NAME | CITY AND STATE New Hyde Park NY — ZIP CODE 11040 |
| ADDRESS (*Number and Street, City, State and Zip Code*) | DATE (*Month, Day, and Year*) 07/11/72 — TELEPHONE NUMBER 516 741-2945 |

FOR SOCIAL SECURITY OFFICE USE ONLY

| PROVIDER NAME AND NUMBER | INTERMEDIARY NAME AND NUMBER | SOCIAL SECURITY OFFICE ADDRESS |
|---|---|---|
| | | |
| | EXHIBIT NO. 5 (Page 1 of 1) | |

ROUTING INSTRUCTIONS (Check one)

- ☐ State Agency (*Route with disability folder*)
- ☐ Payment Center _____ BDI, Balto. ☐
- ☐ BHI, RO _____ ☐ BHI, Attn: DRB, Balto.
- ☐ Division of Foreign Claims, Balto.
- ☐ BDPA, Attn: CWAB, Balto.
- ☐ Intermediary

FORM SSA-561 (8-68)

NOTE: Take or mail completed copies to your Social Security Office.

Copy

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION
Bureau of Retirement and Survivors Insurance

109

New York, New York

When writing about your claim always give Claim No.

130-18-7297

August 11, 1972

Mrs. Maria A. Eisenhauer
43 Birchwood Dr.
New Hyde Park, NY 11040

Dear Mrs. Eisenhauer:

As you requested, your claim has been reconsidered. It has been found that the original decision was correct and in accordance with the law and regulations. The enclosed Reconsideration Determination fully explains the decision reached.

This reconsideration was made by a member of a specially designated staff, different from the staff that made the original decision, and specially trained in the handling of reconsiderations. This staff made an independent and thorough examination of all the evidence on record about your claim.

If you believe that the Reconsideration Determination is not correct, you may request a hearing before a hearing examiner of the Bureau of Hearings and Appeals. If you want a hearing you must request it not later than 6 months from the date of this notice. You should make any such request through your social security office. Please read the enclosed leaflet for a full explanation of your right to appeal.

Sincerely yours,

Rosario D. Cotigni

Regional Representative
Retirement and Survivors Insurance

Enclosures:
Form OA-C662
Form BHA-1

EXHIBIT NO. 6 (Page 1 of 7)

FORM SSA-L244 (9-68)

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

110

# RECONSIDERATION DETERMINATION

| PAYMENT CENTER | DISTRICT OFFICE |
|---|---|
| Office of the Regional Representative (Retirement & Survivors) New York | Mineola, New York |
| NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON | SOCIAL SECURITY ACCOUNT NO. |
| Francis E. Eisenhauer | 130-18-7297 |
| NAME OF CLAIMANT | TYPE OF CLAIM |
| Maria A. Eisenhauer | Child's Insurance Benefits |

DETERMINATION:

Francis E. Eisenhauer died on June 9, 1970, in Warwick, Rhode Island. He was fully insured at the time of his death. Although he died in Rhode Island, he was a resident of New Jersey where he lived and made his home.

On June 29, 1970, Maria A. Eisenhauer filed for benefits for herself, as the deceased's widow, and for two minor children of the deceased whom she had in her care. These claims were approved and Maria A. Eisenhauer and her children, Brian F. Eisenhauer and Francis X. Eisenhauer, were entitled to benefits beginning with June 1970.

On September 23, 1970, an application was filed by Sonja R. Eisenhauer on behalf of her three children, Francis E. Eisenhauer, Sonja L. Eisenhauer, and Ursula M. Eisenhauer, all whom were born to Sonja R. Eisenhauer and fathered by the deceased, Francis E. Eisenhauer. These three children were entitled to benefits on the deceased's record beginning with June 1970. However, since these children were born out of wedlock, they were eligible for a residual payment only. That is, they could receive only the difference between what was paid to Maria A. Eisenhauer for herself and her two children and the maximum amount payable on Francis E. Eisenhauer's record. Since Maria A. Eisenhauer and her children were paid benefits that totalled the family maximum, there was no residual amount and, therefore, no monies were payable to Sonja R. Eisenhauer for any of her three children.

On May 5, 1972, Sonja R. Eisenhauer submitted a marriage certificate which showed that she and Francis E. Eisenhauer were married on August 14, 1969 in Elkton, Maryland. On the basis of this proof, the three children born to Sonja R. and Francis E. Eisenhauer were entitled to a share of the total benefits payable on the deceased's record without restriction; in addition, the four children born to Sonja R. Eisenhauer and her first husband, Andreas Radauscher, also became entitled to benefits on Mr. Eisenhauer's record. The marriage between Sonja R. and Francis E. Eisenhauer created a step-relationship between the children and Mr. Eisenhauer which served as a basis for the entitlement of the four stepchildren: Monika Radauscher; Andreas Radauscher; Erich Radauscher; and Wilhelm Radauscher.

As a result of the entitlement of the additional children and the payment of benefits to them, it was necessary to adjust downward the benefits payable to all beneficiaries on Mr. Eisenhauer's record so as to keep the total benefits payable within the limits of the family maximum. Consequently, the benefits that were paid

to Maria A. Eisenhauer for herself and her two children were significantly reduced. Notice of this determination was mailed to Maria A. Eisenhauer on May 19, 1972. On July 11, 1972, Maria A. Eisenhauer filed a Request for Reconsideration protesting the reduction in benefits for her and her children because of the payment of benefits to the children of Sonja R. Eisenhauer.

The question that must be resolved is whether the benefits payable to Maria A. Eisenhauer and her two children are correct. This depends upon whether the children born to Sonja R. Eisenhauer are entitled to share in the total benefits payable on the record of Francis E. Eisenhauer.

Section 202(g)(1) of the Social Security Act provides that the widow of an individual who died fully or currently insured is entitled to benefits if she has in her care a child of the deceased individual who is entitled to Child's Insurance Benefits.

Section 202(d)(1) of the Social Security Act provides that every child of an individual who died fully or currently insured is entitled to Child's Insurance Benefits if the child files an application (or someone files on his behalf); is not 18, or 22 if a full-time student, or is under a disability that began prior to age 18; and was dependent upon the deceased individual at the time of the individual's death.

Section 216(e) of the Social Security Act defines the term, "child", as the natural child or legally adopted child of an individual and a stepchild who has been a stepchild for not less than nine months immediately preceding the day on which the insured individual died. For purposes of the Social Security Act, a child will be deemed the stepchild of an individual if the individual and the child's parent went through a marriage ceremony that resulted in a purported marriage between them which would have been a valid marriage except for the existence of a legal impediment.

Section 203(a) of the Social Security Act provides that whenever the total benefits to which individuals are entitled exceed the amount of the family maximum, as provided in Section 215(a) of the Social Security Act, each individual's benefit will be proportionately reduced so that the family maximum amount will not exceed the amount of the maximum fixed under Section 215(a).

Sections 205(a) and 205(b) of the Social Security Act provide that the Social Security Administration shall make rules and regulations to regulate and provide for the nature and extent of the proofs and evidence needed to establish the right of an individual to benefits and to make findings of fact and decisions as to the rights of individuals applying for benefits.

Maria B. Eisenhauer filed for mother's benefits for herself and children's benefits for Brian F. and Francis X. Eisenhauer on Francis E. Eisenhauer's record on June 20, 1970. Mr. Eisenhauer died on June 9, 1970 and was fully-insured. The children qualified for benefits on his record under the provisions of Section 202(d)(1) since they were both under 18 years of age and met the dependency requirement. Maria A. Eisenhauer had the entitled children in her care and was, therefore,

EXHIBIT NO. 1 (Page 3 of 7)

entitled to mother's benefits. At the time their benefit claims were processed on August 13, 1970, the Social Security Administration was not aware of any other possible beneficiaries and paid benefits to Maria A. Eisenhauer and her two children up to the family maximum.

On September 23, 1970, Sonja R. Eisenhauer filed an application for benefits on behalf of three children, Francis E., Sonja L., and Ursula M. Eisenhauer, all of whom were under 18 years of age. At the time she filed, Sonja R. Eisenhauer stated that these three children were fathered by Francis E. Eisenhauer and born out of wedlock. She stated that the children lived with Mr. Eisenhauer and were being supported by him. She submitted sufficient evidence to establish that Francis E. Eisenhauer was the biological father of the children and was living with them at the time of his death.

Section 216(h)(2) of the Social Security Act sets forth the criteria used to determine whether a child can qualify for benefits on the record of his or her natural parent. The Social Security Administration will apply the law of the State of domicile of the deceased to determine whether the child had status relative to the taking of the deceased's intestate personal property. If the child had status, the Social Security Administration would consider him a child for purposes of the Social Security Act.

Brian F. and Francis X. Eisenhauer were entitled to benefits on the deceased's record under this provision of the Social Security Act. As children of a valid marital relationship, they had status under New Jersey State Law and, therefore, had the status of children with respect to entitlement to benefits under the Social Security Act.

The three children for whom Sonja R. Eisenhauer filed could not qualify under this provision since their parents (Sonja R. and Francis E. Eisenhauer) were not legally married. Hence, their children would not have status under New Jersey Law and, consequently, would not have the status of children under this provision of the Social Security Act.

Where the child did not have such status under the law of the State of the deceased's domicile, the child will be deemed the child of the insured individual for the purposes of the Social Security Act if the child's parents went through a marriage ceremony resulting in a purported marriage between them which would have been valid except for the existence of a legal impediment.

Since, at the time Sonja R. Eisenhauer initially filed, there was no evidence that she and Mr. Eisenhauer went through a marriage ceremony, their three children could not qualify under this section of the Social Security Act.

Section 216(h)(3) of the Social Security Act provides that where the parents of a child are not married, the child shall have the status of a child for purposes of the Social Security Act if the insured individual acknowledged in writing that the child was his son or daughter, had been decreed by a court to be the father of the child, or had been ordered by a court to contribute to the support of the child

EXHIBIT NO. 6 (Page 4 of 7)

because the child was his son or daughter, or sufficient evidence was presented to convince the Social Security Administration that the insured individual was the child's father, and the insured individual was living with or contributing to the support of the child at the time of the insured individual's death.

Section 203(a)(3) of the Social Security Act provides that whenever the benefits payable on an insured individual's record are adjusted downward because the maximum benefit payable is exceeded, each beneficiary's amount will be proportionately reduced except for the benefits due children whose parents did not marry and who qualify under Section 216(h)(3) of the Social Security Act. The benefits due children who qualify under this provision will be reduced first. Their benefits will be reduced to zero, if necessary, before proportionately reducing the benefits payable to other beneficiaries on the insured individual's record.

Sufficient evidence was submitted to establish the entitlement, beginning with June 1970 of the three children born to Sonja R. Eisenhauer, under Section 216(h)(3) of the Social Security Act.

Since payment of the maximum benefit was involved, it was necessary to reduce the benefits payable to the beneficiaries so as not to exceed the maximum. In accordance with Section 203(a)(3) of the Social Security Act, the three children who were entitled under Section 216(h)(3) had their benefits reduced first. It was necessary to reduce their benefits to zero since the maximum would still be a factor even after the reduction of their benefits to zero. In effect, these three children could receive only the difference between what was paid to the other beneficiaries on this record and the maximum benefit payable. Since the maximum benefit was payable to Maria A. Eisenhauer and her two children, there were no benefits payable to the three children of Sonja R. Eisenhauer. Notice of this determination was sent to Sonja R. Eisenhauer on January 8, 1971.

On February 24, 1972, Sonja R. Eisenhauer wrote to the Social Security Administration protesting the decision that benefits were not payable to her three children. Included with her letter was a copy of a marriage certificate showing that she and Francis E. Eisenhauer went through a marriage ceremony in Elkton, Maryland on August 14, 1969.

On April 28, 1972, Sonja R. Eisenhauer filed an application for benefits on behalf of the four children of her first marriage, Monika, Andreas, Erich, and Wilhelm Radauscher. In addition to submitting their birth records to establish their age and relationship, she submitted the original marriage record for her and Francis E. Eisenhauer establishing that they went through a marriage ceremony.

The fact that Sonja R. and Francis E. Eisenhauer had a ceremonial marriage changed the entire complexion of the case. The decisions made with respect to the entitlement and payment of benefits to Maria A. Eisenhauer and her two children, as well as the three children of Sonja R. Eisenhauer who were already entitled to benefits, had to be reexamined in the light of the new evidence that was submitted. In addition, consideration had to be given to the application for benefits filed by Sonja R. Eisenhauer for the four children of her first marriage.

EXHIBIT NO. 6 (Page 5 of 7)

The marriage entered into by Francis E. and Sonja L. Eisenhauer was not valid. The existence of the marriage between Francis E. and Maria A. Eisenhauer constituted a legal impediment that prevented Francis E. Eisenhauer from entering into a valid marital relationship. Although a legal separation existed, the marriage between Francis E. and Maria A. Eisenhauer was not terminated at the time Francis E. and Sonja L. Eisenhauer went through the marriage ceremony. It is also clear that both parties were aware of the impediment to their contracting a valid marriage and went through the marriage ceremony fully realizing that a valid marital relationship would not result and they could not be considered legally married.

The submission of the marriage certificate did, however, affect the entitlement of the children and the payment of their benefits. Whereas the original decision was based on the premise that Sonja L. and Francis E. Eisenhauer were not married, the submission of the marriage record completely changed the basis on which this original decision was made.

The three children of Sonja L. Eisenhauer were entitled under Section 216(h)(3) of the Social Security Act because their parents had never gone through a marriage ceremony. At least, this was the information upon which the original decision concerning their entitlement was based.

The submission of the marriage record and the subsequent determination that Sonja L. and Francis E. Eisenhauer went through a marriage ceremony changed the status of the three children and instead of being entitled under Section 216(h)(3) of the Social Security Act, they qualified under Section 216(h)(2) of the Social Security Act. Specifically, the three children are deemed the children of Mr. Eisenhauer because the children's parents went through a marriage ceremony that would have resulted in a valid marriage except for the existence of a legal impediment (Mr. Eisenhauer's undissolved first marriage to Maria A. Eisenhauer). The fact that there was never a valid marital relationship between Sonja L. and Francis E. Eisenhauer and that neither party entered into the marriage in good faith, that is, both knew a valid marriage was impossible, does not affect the changed status of the three children. Since their parents did go through a marriage ceremony, the children became entitled under Section 216(h)(2) of the Social Security Act. Had Sonja L. Eisenhauer submitted the marriage record initially, this determination would have been made originally. The effect of this decision is to remove the limitation, under Section 203(a)(3) of the Social Security Act, [illegible] prevented the three children from sharing in the maximum benefit payable on the deceased's record. As children under Section 216(h)(2) of the Social Security Act, they share equally and proportionately in the maximum benefit with the other children entitled to benefits.

In addition to changing the status of the three children already entitled, the fact that Sonja L. and Francis E. Eisenhauer went through a marriage ceremony resulted in the entitlement of Monika, Andreas, Erich, and Wilhelm Radauscher to benefits on the record of Francis E. Eisenhauer. These children, who were Sonja L. Eisenhauer's children by her first husband, qualified for benefits on Mr. Eisenhauer's record as his stepchildren. Section 216(e) of the Social Security Act includes in the definition of a child (for purposes of the Social Security Act) a stepchild

EXHIBIT NO. 6 (Page 6 of 7)

who has been a stepchild for at least nine months and whose parent went through a marriage ceremony with the insured individual (in this case Francis R. Eisenhauer) that resulted in a purported marriage between them which would have been valid except for the existence of a legal impediment. Again the fact that the resulting marital relationship was not valid and that the parties to the marriage were fully aware of the existence of the legal impediment does not act as a bar to the entitlement of children under this section of the Act. Consequently, the four stepchildren of Mr. Eisenhauer were entitled to benefits and suppose their proportionate shares of the maximum amount payable on Mr. Eisenhauer's record.

As a result of the change in the entitlement status of the three children of Sonja R. Eisenhauer and the entitlement of her four children as stepchildren of Mr. Eisenhauer, the maximum benefit payable on his record was distributed in equal portions to each of the ten beneficiaries, Wanda A. Eisenhauer and her two children and the seven children of Sonja R. Eisenhauer.

After thoroughly examining the facts in the case as presented by Sonja R. Eisenhauer and Wanda A. Eisenhauer and considering the application of the pertinent sections of the Social Security Act, it is determined that the decision to entitle Pamela R., Sonja L., and Ursula M. Eisenhauer and Monika, Andreas, Erich, and Wilhelm Radmacher to benefits was correct. It is further determined that they are entitled to shares in the maximum benefit payable on this record in the same proportion as Wanda A., Francis L., and Erica F. Eisenhauer and that the benefits being paid to each are correct.

AUTHORITY: Sections 202(d)(1), 202(g)(1), 216(e), 203(a), 205(a), 215(a) and 216(h)(2) and (3) of the Social Security Act.

Bernard Levine
Chief, Reconsideration Branch

August 11, 1972

EXHIBIT NO. 6 (Page 7 of 7)

# EARNINGS RECORD - P.I.A. DETERMINATION

FORM SSA-794 (12-68)

**1 ACCOUNT IDENTIFICATION**

| ACCOUNT NUMBER | NAME | DATE OF BIRTH (MO DAY YR) | FILING (MO DAY YR) | DEATH (MO DAY YR) | ONSET (MO DAY YR) | ELECTION (MO YR) | REQUEST (MO DAY) | SCIP (MO DAY) |
|---|---|---|---|---|---|---|---|---|
| 133-18-7207 | MRS [illegible] | [illegible] | 09 23 70 | 06 09 70 | | | 09 24 | 09 24 |

MULTIPLE ANS

**7 SOPA SIGNALS**

| CA | ED | S | RIB/RHYTH | CR MO EN | CR MO QC | SE AG INV | TRN | FB IND | DESK | DAY CODE | SEQ NO | EDIT CASE CODE | CODE | 101 | BLOCK NUMBER | BY DEL IND |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | NN | 13036 | 16 | 1A | EA | 34651 | 85 |

ESTABLISHED DISABILITY PERIOD

SOPA

PRE-1957 MILITARY SERVICE

| FROM | TO | FROM | TO |
|---|---|---|---|
| 10/42 | 03/46 | | |

LAG INFORMATION

| TYPE | PERIOD | AMOUNT USED | TYPE | PERIOD | AMOUNT USED | TYPE | PERIOD | AMOUNT USED | TYPE | PERIOD | AMOUNT USED | TYPE | PERIOD | AMOUNT USED | YR | LOWN |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | |

**2 EARNINGS RECORD DATA**

QUARTER OF COVERAGE TESTS

| REQUIRED QC FULLY | REQUIRED QC TO | REQUIRED QC SPEC 72 | REQUIRED QC MIN | MOD QC | SIMP QC | MAX QC | DISABILITY MET FIRST ELIG | DISABILITY MET 20/40 | DISABILITY MET 24/40 | DISABILITY MET MQH EX 28/40 | DISABILITY MET EXC 31 | TOT SE QC | TOT AG QC | WAGE QC AFTER 50 | WAGE QC AFTER 71 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 19 | | | | 40 | | | | | | | | | | 62 | 58 |

QC AND EARNINGS TOTALS

| TOTAL EARNINGS AFTER 1936 | TOTAL EARNINGS AFTER 1950 |
|---|---|
| 124221.69 | 115702.29 |

| YR | EARNINGS | U | QC/SM | YR | EARNINGS | U | QC/SM | SE | YR | EARNINGS | U | QC/SM | SE | AG | YR | EARNINGS | U | QC/SM | SE | AG | CMW |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 37 | | | | 46 | | | | | 4200 55 | 5656.00 | H | CCCC | 0 | 0 | 64 | 6659.67 | H | CCCC | 0 | 0 | |
| 38 | | | | 47 | | | | | 56 | 4314.00 | X | CCCC | 0 | 0 | 65 | 5214.67 | H | CCGG | 0 | 0 | |
| 39 | | | | 48 | | | | | 57 | 4264.00 | X | CCGG | 0 | 0 | 6600 66 | 12521.82 | H | CCCC | 0 | 0 | |
| 3000 40 | | | | 49 | | | | | 58 | 4368.00 | | CC*G | 0 | 0 | 67 | 7658.50 | H | CCCC | 0 | 0 | |
| 41 | | | | 50 | | | | | 1800 59 | 4852.00 | H | CCG* | 0 | 0 | 7800 68 | 9782.50 | H | CCCC | 0 | 0 | |
| 42 | | | | 3600 51 | 4253.89 | | | 0 | 60 | 4825.50 | H | CC*G | 0 | 0 | 69 | 12504.10 | H | CCCC | 0 | 0 | |
| 43 | | | | 52 | 3600.00 | | | 0 | 61 | 4800.00 | H | CCGG | 0 | 0 | 70 | | | NNNN | 0 | 0 | |
| 44 | | | | 53 | 3600.00 | | CCCN | 0 | 62 | 4840.00 | H | CCGG | 0 | 0 | 71 | | | | | | |
| 45 | | | | 54 | 7110.64 | | CCCC | 0 | 63 | 4877.00 | H | CCGG | 0 | 0 | 72 | | | | | | |

**5** THE BENEFIT DATA IN BLOCKS 3 AND 4 ARE CORRECT ACCORDING TO THE LAW ON THE BASIS OF THE RECORDS OF THE SOCIAL SECURITY ADMINISTRATION AND RECORDS RECEIVED FROM THE RAILROAD RETIREMENT BOARD

WILLIAM E. HANNA, JR.
DIRECTOR

CORRECTED

ELECTRONICALLY DEVELOPED STATEMENT

PRIOR ACTION ☐ OASI ☐ DISABILITY

| TYPE OF ACTION | BY | CORRECTIONS IN BLOCKS 3 AND 4 |
|---|---|---|
| SUR | DATE 09/24/70 | 10/01/70 |

**6 SOPA REMARKS**

7800 - 1970
4200
3600
7500.00
7800.00
P38 195

**3 PERTINENT RRB INFORMATION**

| NAME | DB MO | DB YR | 1937 TO DATE YLW | 1937 TO DATE SM | 1937 TO DATE COMPENSATION | 1937-1946 SM | 1937-1946 COMPENSATION | GROSS RESIDUAL | I W U | I E R | A B R | R L W | RR NO | RR JUR | II FD OB | II AB OB | MED EV | ALL PREV II | RR SUB | RR SPO |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | | | | | |

**4 BENEFIT COMPUTATIONS**

| | TYPE | FIRST BASE YR OR CO | LAST BASE YR OR CO | DIVIDEND | OMAB BASE YRS EXCL | ELAPSED YO OR DO YRS | DIM | I/Y | MS MOS INCL | PIA RETRO | PIA CUR | LUMP SUM | FIRST ENT MO | RED NOS | REDUCED BENEFITS RETRO | REDUCED BENEFITS CURR |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| WOR | NS 65 | 1951 | 1970 | 7500/400 | | 51-69 | 168 | | | | 189.80H | 255.00 | 06/70 | | | |
| TRIAL | | | | | | | | | | | | | | | | |
| SOPA MEASURE | | | | | | | | | | | | | | | | |
| DO PC BOI | | | | | | | | | | | | | | | | |

**10 DO, PC OR BOI REMARKS**

Q C Q C

116

EXHIBIT NO. 9 (Page 1 of 2)

Roman Catholic Church
of
Our Lady of the Miraculous Medal
Ridgewood, N. Y.
+

# CERTIFICATE OF BAPTISM

Child of Francis Eisenhauer
and Frank Eisenhauer
Louise Pucandl
born on the 24 day of February 1924
was baptized on the 16 day of March 1924
by the Rev. John M Mulz
Sponsors: Mary M Pucandl

The above is a true copy from the Baptismal Register of this Church.

Dated February 12 1960

Rev John J McDade
Asst Rector.

Address at time of Birth 12 Rene Place Brooklyn

EXHIBIT 8 (Page 1 of 1)

| | | | | | |
|---|---|---|---|---|---|
| DECEDENT — First | Middle | Last | Sex | Date of Death (Month Day Year) | |
| FRANCIS | E. | EISENHAUER | Male | June 9, 1970 | 110 |
| Race — White, Negro, American Indian, etc. | Age — Last Birthday (Years) | Under 1 Year: Months / Days | Under 1 Day: Hours / Minutes | Date of Birth (Month Day Year) | County of Death |
| White | 46 | | | Feb. 24, 1924 | Kent |
| City, Town or Location of Death | | | | Hospital or Other Institution — Name (Not Street and No.) if in Hospital | |
| Warwick | | | | Howard Johnson's Motor Lodge | |
| State or Foreign Country of Birth (If Not U.S.A., Name Country) | Citizen of What Country | Married, Never Married, Widowed, Divorced (Specify) | If Married, Widowed or Divorced — Name of Spouse | | |
| New York | U.S.A. | Married | Sonja Jongebloed | | |
| Social Security Number | Usual Occupation (Give Kind of Work Done During Most of Working Life, Even If Retired) | Kind of Business or Industry | | | |
| 130-18-7297 | Salesman | Golton Industries, N.J. | | | |
| City or Town of Residence | Mailing Address of Residence — Street and Number, City, Town or Location | | | | |
| So. Plainfield | 10 Puha Rd., South Plainfield, N. J. 07080 | | | | |
| Father — First | Middle | Last | Mother — First | Middle | Maiden Name |
| Frank | J. | Eisenhauer | Louisa | | Pucandl |
| Informant — Name | Mailing Address — Street and No., City or Town, State, Zip | | | | |
| Mrs. Sonja Eisenhauer | 10 Puha Rd., So. Plainfield, N.J. 07080 | | | | |

PART I. DEATH WAS CAUSED BY (Enter only one cause per line for a, b and c.)

10 Immediate Cause (a): OCCLUSIVE THROMBOSIS

Due to, or as a consequence of (b):

Conditions, if any, which gave rise to the immediate cause (a) stating the underlying cause last: Due to, or as a consequence of (c):

PART II. OTHER SIGNIFICANT CONDITIONS. Conditions contributing to death but not related to cause given in Part I.

Autopsy (Yes or No): No

| Accident, Suicide, Homicide or Undetermined (Specify) | Date of Injury (Month Day Year) | Hour | How Injury Occurred (Enter Nature of Injury in Part I or Part II) |
|---|---|---|---|
| | | | |

| Injury at Work (Specify Yes or No) | Place of Injury — At Home, Farm, Street, Factory, Office Bldg., etc. (Specify) | Location — Street or R.F.D. No., City or Town, State |
|---|---|---|
| | | |

CERTIFICATION — MEDICAL EXAMINER OR CORONER — On the basis of the examination of the body and/or the investigation, in my opinion, death occurred on the date and due to the cause(s) stated.

| Death Occurred — Hour | The Decedent Was Pronounced Dead — Hour | Date Signed (Month Day Year) |
|---|---|---|
| 2-3A. | 6-9-70 2-3A. | 6/9/70 |

Certifier — Name, Type or Print: EDWARD F ARZINIO MD

Signature: [signature]

Address — Street or R.F.D. No., City or Town, State, Zip: 3275 West Shore Rd. Warwick R.I. 02886

| Burial, Cremation, Removal (Specify) | Cemetery or Crematory — Name | Location — City or Town, State |
|---|---|---|
| Burial | Holy Redeemer Cemetery | So. Plainfield N.J. |

| Date (Month Day Year) | Funeral Home — Name and Address | |
|---|---|---|
| June 13, 1970 | Juhlin-Pearson Co., 754 Broad St., Providence, R.I. | |

Funeral Director — Signature: Stanley C. Larson

Registrar — Signature: James Hallwell

Date Received by Local Registrar: June 11, 1970

VS-3 SM 7/69

STATE COPY

I hereby certify that this is a true copy of the record as recorded in the office of the State Registrar of Vital Statistics.

This copy issued JUL 22 1970

Leo Ohse
State Registrar

BEST COPY OBTAINABLE

EXHIBIT NO. 10 (Page 1 of 2)

# Church of St. Francis of Paola

219 CONSELYEA STREET, BROOKLYN, 11, N. Y.

# Certificate of Marriage

This is to certify that

[redacted] and [redacted]

were lawfully married on [redacted] 19[redacted]

According to the Rite of the Roman Catholic Church
and the Laws of the State of New York

*Officiating Priest* [redacted]

*Witnesses* [redacted] and [redacted]

*As appears from the Marriage Records of this Church*

[redacted] *Pastor*

(L ✠ S) *Date* [redacted]

*What therefore God has joined together, let no man put asunder.* (Matt. XIX: 6)

113

# Birth Certificate

**This Certifies** that Brian Francis Eisenbraun was born in

Roslyn Park Hospital (Hospital) Warner Avenue (City) Roslyn Heights, N. Y. (State)

on the 13th day of January A. D. 1955 at 1:59 A M

to Isidore Taubstuck M D.
ATTENDING PHYSICIAN

**In Witness Whereof** this Hospital has caused this Certificate to be signed by its duly authorized officer.

Dr. L Bardoly
SUPERINTENDENT

EXHIBIT NO. 11 (Page 1 of 1)



BABY'S HAND OR FOOT PRINT

FATHER'S NAME Francis Eisenbraun

ADDRESS 43 Birchwood Dr. New Hyde Park

BIRTHPLACE New York DATE Feb 24-24

MOTHER'S MAIDEN NAME Maria Albanese

BIRTHPLACE New York DATE Aug 29-20

MOTHER'S RIGHT THUMB PRINT

No. 21060

120

FAUROT INDEXING SYSTEM, N.Y.C. - PATENTED

# Birth Certificate

**This Certifies** that [illegible] was born in

Roslyn Park Hospital (HOSPITAL) Warner Avenue (CITY) Roslyn Heights, N. Y. (STATE)

on the 24 day of October A. D. 19[illegible] at 1[illegible] M

Isidore Tanchnick, M.D.
ATTENDING PHYSICIAN

In Witness Whereof this Hospital has caused this Certificate to be signed by its duly authorized officer.

[illegible]
SUPERINTENDENT

FATHER'S NAME [illegible]

ADDRESS [illegible]

BIRTHPLACE [illegible] DATE [illegible]

MOTHER'S MAIDEN NAME [illegible]

BIRTHPLACE [illegible] DATE [illegible]



BABY'S HAND OR FOOT PRINT

MOTHER'S RIGHT THUMB PRINT



No. [illegible]

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EXHIBIT NO. 12 (Page 1 of 1)

121

Faulkner Printing Co., N. Y. C.

MEMORANDUM (Cal. No. 21 1/26/56)

SUPREME COURT. [illegible] COUNTY - [illegible], PART I

[illegible], Plaintiff,

vs.

[illegible], Defendant.

BY [illegible], J.

DATED February 16, 1956

Motion No. 2[illegible]/56

[illegible], Esqs., Attorneys for [illegible]
[illegible]
[illegible], New York

[illegible] and Cohn, Esqs.
Attorneys for Defendant
The Boston Building
Lincoln, New York

This motion by plaintiff wife seeks an order awarding (1) custody of the infant children; (2) exclusive possession of the marital home; (3) alimony pendente lite; and (4) counsel fees. Plaintiff's motion is granted to the following extent: The plaintiff is awarded custody of the children with reasonable visitation rights to the defendant to be incorporated in the order to be entered hereon. In addition, the plaintiff is awarded temporary alimony in the amount of $100. per week, commencing as of January 19, 1956 and exclusive possession of the marital home. Defendant shall continue to pay all expenses for the maintenance of the marital home, including mortgage interest, amortization, taxes, insurance, fuel and utilities (except telephone). Counsel fees of $1,000. are awarded to the plaintiff, payable one-half within thirty days after service upon defendant of a copy of the order to be entered hereon, and the balance when this case reaches the ready day calendar. The foregoing awards are without prejudice to an application to the trial court for additional allowances if then warranted.

Settle order on notice.

[illegible]
J.S.C.

EXHIBIT NO. 13 (Page 1 of 12)

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[illegible]

- - - - - - - - - - - - - - - - - - - -

[illegible]

- - - - - - - - - - - - - - - - - - - -

The above entitled [illegible] been duly brought on for a [illegible] of this Court at a Special Term Part II, [illegible] on the 5th day of June 1956, and the plaintiff having appeared by her attorney, [illegible], Esq., and the defendant having appeared by his attorneys, [illegible], Esqs. (Glen Cove, N.Y., of Counsel), and the Court having, in open court, rendered its decision, and thereafter having been given in open Court, and the Court having heard and considered the proof offered at trial, made a decision in writing stating separately the facts

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EXHIBIT NO. 13 (Page 2 of 12)

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EXHIBIT NO. 13 (Page 3 of 12).

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payments to be made by check or postal money order at her residence or at such other place as she may hereafter designate in writing, and it is further

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clause, the plaintiff may apply to this Court for such relief as she may deem necessary under the circumstances, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to pay to the plaintiff the sum of $60.00 a week for the support, care, maintenance and education of the infant children of the marriage ($30.00 a week for each child), to wit: [illegible], such payments to be made by check or postal money order, commencing on the 10th day of June 1966 and weekly thereafter on each and every Friday ending, said payments to be made at the residence of the plaintiff or at such other place as she may hereafter designate in writing, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to execute and deliver to the plaintiff at the office of her attorney, [illegible], ESQ., 146 Old Country Road, Mineola, New York, a Quitclaim and Sale Deed Without Covenant, to the marital home heretofore owned by the parties as tenants by the entirety, to wit: 42 Birchwood Drive, New Hyde Park, Nassau County, New York, so that the plaintiff shall become the sole owner of said marital home, and it is further

By June 10, 1966

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clause, the plaintiff may apply to this Court for such relief as she may



EXHIBIT NO. 13 (Page 4 of 12)

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... necessary under the circumstances, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to retain and maintain any and all medical and hospitalization insurance, be it Blue Cross and Blue Shield, or its equivalent, for the benefit of the plaintiff and the infant issue of the marriage, and it is further

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clauses the plaintiff may apply to this Court for such relief as she may deem necessary under the circumstances, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to maintain the life insurance policy in favor of the plaintiff and to pay the monthly payments when which payments shall be in addition to any and all payments made for alimony, support and maintenance, as set forth herein, and it is further

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clauses, the plaintiff may apply to this Court for such relief as she may deem necessary under the circumstances, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to pay to the plaintiff the sum of $1,100.00 as and for the balance of counsel fees due to her attorney, HERMAN YELLIN, ESQ., for services rendered on behalf of the plaintiff, said payment to be made within five days from the making and the entry of the order herein, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant's counter be and the same hereby is withdrawn, and it is further



EXHIBIT NO. 13 (Page 5 of 12)

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ORDERED, ADJUDGED AND DECREED that the plaintiff's complaint, other than that which relates to the cause of action for nonsupport, be and the same hereby is discontinued.

ENTER

Entered
Aug 1, 1966

s/ Thomas P. Foley
U.S.C.

Franklin H. Goodwin
Clerk

Entered Aug 1, 1966
Franklin H. Goodwin
Deputy Clerk



EXHIBIT NO. 14 (Page 1 of 2)

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At a Special Term Part V(a) of the Supreme Court of the State of New York, held in and for the County of Nassau, at the Courthouse, Supreme Court Drive, Mineola, New York, on the 22nd day of April 1968.

P R E S E N T :

HON. THOMAS P. FARLEY
Justice

---

[illegible],

Plaintiff Index No. 243/66

-against-

[illegible],

Defendant

---

The plaintiff having moved this Court, pursuant to Section 237 of the Domestic Relations Law, for an order modifying the judgment of separation made and entered the 1st day of August 1966,

NOW, on reading and filing the order to show cause dated the 5th day of January 1968, the order to show cause dated the 30th day of January 1968, the affidavits of MARY [illegible], duly sworn to the 2nd day of [illegible] 1968 and the 11th day of February 1968, the affirmations of [illegible] WEILER, dated December 26, 1967 and January 25, 1968, and the judgment of separation made and entered the 1st day of August 1966, all in support of said application, and the affidavit of [illegible] EISENBERG, duly sworn to the 17th day of February 1968 in opposition thereto, and the motion having duly come on to be heard before this Court

- 1 -

EXHIBIT NO. 13 (Page 1 of 12)

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on the 21st day of February 1968, and the Court, by order dated March 13, 1968, having directed a hearing at a Special Term Part V of this Court, and said hearing having come on before this Court on the 2nd day of April 1968, and the plaintiff having appeared by her attorney, HERMAN YELLON, ESQ., and the defendant having appeared by his attorney, HARRY H. LIPSIG, ESQ., by Philip Rodgers, and the parties having presented their written and oral proof, and the Court having rendered its decision on the 2nd day of April 1968, it is

ORDERED, that the plaintiff's application be and the same hereby is granted, and it is further

ORDERED, that the judgment of separation be and the same hereby is modified to read as follows:

At a Special Term Part II held in and for the Supreme Court of the County of Nassau, at the Courthouse, 33 Willis Avenue, Mineola, New York, on the 1st day of August 1966.

P R E S E N T :

HON. THOMAS P. FARLEY
Justice

MARY EISENHAUER,

Plaintiff

-against-

FRANCIS EISENHAUER,

-Defendant-

The above entitled action having been duly brought on for a judgment of separation in favor of the plaintiff and against the defendant on the ground of the defendant's willful abandonment



EXHIBIT NO. 13 (Page 1 of 2)

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of the plaintiff and the infant issue of the marriage, and the summons and verified complaint having been duly personally served upon the defendant, and the defendant having appeared by his attorneys, WEINS AND CORN, ESQS., and answered the complaint, and the issues of the said action having been duly brought on for trial and heard before the Court at a Special Term Part II, without a jury, on the 9th day of June 1966, and the plaintiff having appeared by her attorney, HERMAN YELLON, ESQ., and the defendant having appeared by his attorneys, WEINS AND CORN, ESQS. (Alan Corn, Esq., of Counsel), and the defendant having, in open court, withdrawn his answer, and testimony having been given in open court, and the undersigned having heard and considered the proof offered and having made a decision in writing stating separately the facts found and the conclusions of law,

NOW, on motion of HERMAN YELLON, ESQ., attorney for the plaintiff, it is

ORDERED, ADJUDGED AND DECREED that the plaintiff, MARY EISENHAUER, be and she hereby is separated from the bed and board of the defendant, FRANCIS EISENHAUER, as prayed for in the complaint because of his willful abandonment of the plaintiff and the infant issue of the marriage, and it is further

ORDERED, ADJUDGED AND DECREED that the plaintiff be and she hereby is awarded the sole custody of the infant issue of the marriage, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be permitted to have visitation of the infant issue of the marriage,



EXHIBIT NO. 13 (Page 9 of 12)

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off the premises of the plaintiff's residence, on Sunday of each and every week, between the hours of 10:00 A.M. and 5:00 P.M., and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to pay to the plaintiff the sum of $25.00 a week commencing on Friday, June 10, 1966, and thereafter on each and every Friday ensuing, by check or postal money order, as and for her permanent support, said payments to be made at the residence of the plaintiff or at such other place as she may hereafter designate in writing, and it is further

ORDERED, ADJUDGED AND DECREED that in addition to the alimony heretofore set forth herein, the defendant be and he hereby is directed to pay to the plaintiff 50% of any and all net bonuses he shall receive from his employer. Payment of said bonus is to be made within three days after the receipt thereof by the defendant, at which time a copy of the bonus statement is to be furnished to the plaintiff together with the remittance of the net amount, as referred to herein, said payments to be made by check or postal money order at her residence or at such other place as she may hereafter designate in writing, and it is further

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clause, the plaintiff may apply to this Court for such relief as she may deem necessary under the circumstances, and it is further



EXHIBIT NO. 13 (Page 4 of 12)

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ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to pay to the plaintiff the sum of $70.00 a week for the support, care, maintenance and education of the infant children of the marriage ($35.00 a week for each child), to wit: BRIAN FRANCIS and FRANCIS XAVIER, such payments to be made by check or postal money order, commencing on the 20th day of February 1968 and weekly thereafter on each and every Friday ensuing, such payments to be made at the residence of the plaintiff or at such other place as she may hereafter designate in writing, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to execute and deliver to the plaintiff at the office of her attorney, HERMAN VELLON, ESQ., 140 Old Country Road, Mineola, New York, by June 10, 1968, a Bargain and Sale Deed without covenant, to the marital home heretofore owned by the parties as tenants by the entirety, to wit: 43 Pinehurst Drive, New Hyde Park, Nassau County, New York, so that the plaintiff shall become the sole owner of said marital home, and it is further

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clause, the plaintiff may apply to this Court for such relief as she may deem necessary under the circumstances, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to retain and maintain any and all medical and hospitalization insurance, be it Blue Cross and Blue Shield, or its equivalent, for the benefit of the plaintiff and the infant issue of the marriage, and it is further



EXHIBIT NO. 13 (Page 11 of 12)

BEST COPY OBTAINABLE

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clause the plaintiff may apply to this Court for such relief as she may deem necessary under the circumstances, and it is further

ORDERED, ADJUDGED AND DECREED that the defendant be and he hereby is directed to maintain the life insurance policy in favor of the plaintiff and to pay the monthly payments thereon, which payments shall be in addition to any and all payments made for alimony, support and maintenance, as set forth herein, and it is further

ORDERED, ADJUDGED AND DECREED that upon the failure of the defendant to comply with the above mentioned decretal clause, the plaintiff may apply to this Court for such relief as she may deem necessary under the circumstances.

E N T E R

GRANTED

AUG. 1, 1966

Franklin H. Ostrotein
Clerk

s/ THOMAS P. FARLEY
J.S.C.

ENTERED AUG. 1, 1966

Franklin H. Ostrotein
County Clerk of Nassau Co.

E N T E R

FILED
APR 22 1968
HAROLD W. McCONNELL
Clerk

ENTERED

APR 22 1968

HAROLD W. [illegible]
COUNTY CLERK

THOMAS P. FARLEY
J.S.C.



EXHIBIT NO. 13 (Page 12 of 12)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE CLAIMS
SOCIAL SECURITY ADMINISTRATION

134

IN REPLYING ADDRESS

SOCIAL SECURITY OFFICE 138
1505 KELLUM PLACE
MINEOLA, NEW YORK 11501

TELEPHONE: 747-5470

July 11, 1970

Please read other side

Mrs. Maria A. Eisenhauer
43 Birchwood Dr
New Hyde Park, N.Y. 11040

Dear Mrs. Eisenhauer:

Re: Francis E. Eisenhauer, 130-14-7207

In connection with your application, we need the additional information listed below.

After you have filled in the item(s) and signed your name, please return this letter to us. If you are unable to furnish this information or need assistance, please call at our office or notify us by mail or telephone. If you call in person, please bring this letter with you.

Sincerely yours,

Virginia Bamin

Enclosure

(DO NOT DETACH)

Please indicate the name, address, and relationship of the person who is assuming responsibility for the funeral expenses of your late husband.

Name : Sonja Radauscher
Address : 100 Puha Road
South Plainfield, New Jersey

Relationship: A stranger and not the wife of Francis Eisenhauer

EXHIBIT NO. 14

Knowing that anyone making a false statement or representation of a material fact for use in determining the right to or the amount of Federal social security benefits or in determining an individual's disability, commits a crime punishable under Federal law, I certify that the above statements are true.

July 15, 1970
(Date signed)

SIGN HERE ▶ Maria A. Eisenhauer
(Please sign here)
(Legal wife)

FORM SSA-L732

re: Francis E. Eisenhauer
130-18-7297

135

July 15, 19

Dear Mr. Savrin:

This is to inform you, that I was still legally married to Francis E. Eisenhauer when he died. We were separated, but were never divorced.

Sonja Radauscher does not have any legal relationship to my husband. She was mar to someone named Radauscher several years ago.

Mr. Eisenhauer and I are the parents of Brian Francis, aged 15 and Francis Xavier, aged 11. They are his only legal children.

I hope that all is clearer now. Please feel free to write or call me if there are any more questions.

Thank you so very much.

Maria A. Eisenhauer

EXHIBIT NO. 14 (Page 2 of 2)
741-2945

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130-18-7297 E

June 19, 1972

RSI:RR:NY:OPP:IP

Maria A. Eisenhauer
43 Birchwood Drive
New Hyde Park, N. Y. 11040

Dear Mrs. Eisenhauer:

We are pleased to inform you that recovery of the incorrect payments, in the amount of $3985.50 made to you and your children, has been waived.

It has been determined that you accepted and cashed all checks in good faith and recoupment would defeat the purpose of Title II of the Social Security Act.

If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make any such request through any Social Security office. If additional evidence is available, you should submit it with your request.

Sincerely yours,

Charles Lundgren
Director of Operations
Retirement and Survivors
Insurance

NF:ef

DL

EXHIBIT NO. 15

43 Birchwood Drive
New Hyde Park, N.Y. 11040
November 10, 1972

U.S. Department of
Health Education and Welfare
Social Security Administration
District Office
1505 Kellum Place
Mineola L.I., N.Y. 11501

Dear Director:

I am enclosing the "Request for hearing" form which was sent to me a few days ago.

It has been filled out properly as requested. Evidence is submitted.

I have a huge grievance.

When I received the shocking news about the drastically reduced Social Security benefits in May of this year I immediately appeared in person at your office

EXHIBIT D. 16

Over-payment was waived

I reappeared at your office in July for the next step a "Re-consideration Determination".

That meeting was a disaster.

I had two envelopes with all important documents to substantiate my claim for full "Moth and children" benefits.

Yet the word "None" was written in the section reserved for "Evidence".

I don't understand why copies weren't made.

When I first appeared at your office in June of 1970, (when my husband died) copies were made of important papers. Numerous copies!

In July the whole attitude at your office was a very detached one. After all, we were rightfully awarded maximum benefits in 1970 as legal family

EXHIBIT NO 16.

When I read the "Reconsideration" report, a new low was reached.

At the very beginning of the report, was a complete untruth!

It stated that my husband Francis died a resident of "New Jersey".

I have a declaratory judgment which states that my husband died a resident of "New York".

It also states that I am the legal widow and at no time were my husband and I ever divorced, nor was our marriage ever annulled.

The sad part is that I had a copy of said "judgment" with me in July. Why couldn't someone listen? Why has so much time been wasted?

While realizing that a "request for hearing" might take weeks I appealed to my Senator in August.

EXHIBIT NO. 6

I remembered my last meeting at your office in July.

I left in tears!

That is why I appealed to the Senator. Also I had hoped that things might be settled sooner. One more disappointment.

The matter was referred to the Congressman in Washington.

I have correspondence from both the Senator and Congressman.

Still no results!

Where are all the numerous documents I left with my letter to the Senator?

Subsequently, the matter was referred to proper authorities at Social Security. At least, that's what I was told.

Who are the proper authorities? Why should I have to supply

EXHIBIT NO 6

duplicate documents? I can't afford to have copies made over again



I certainly hope, that my letter and documents aren't just filed away somewhere. It seems that way.

Here it is November!

I was forced to seek some "Public Assistance" but it certainly is not enough.

How can benefits rightfully meant and awarded to three be shared by seven others? How unjust!

At least, we were just about making last payments, with maximum benefits from Social Security.

Now we have delinquent taxes. A lien was placed on our home.

What has happened to our rights

EXHIBIT NO. 6

I would like to submit as much information and evidence as I can.

1-2

1. Declaratory Judgment.
(Evidence of my status as legal widow and "New York" residence of my husband Frances.

2. Amended death certificate following "judgment".

3. Evidence of my being named "Administratrix" of my husband's estate, via my "administration" document.

4. Certificate of car ownership in name of "Eisenhauer". ("wife")

Commercial Credit in East Orange New Jersey paid the remaining car loan balance in excess of $800.00.

EXHIBIT NO. 6

My husband was owner of the car too. There was life insurance on the loan.

5. Copy of telegram sent to State Morgue illegally claiming body as "wife".

Important facts concerning the illegal use of the name "Eisenhauer" by the girl Sonja.

Checking account in New Jersey
Car license in New Jersey
Incorrect death certificate
Home in New Jersey

- Sonja is receiving children's benefits from Veterans Administration.

As a result my sons are receiving reduced benefits.

- Sonja is receiving child support @ 17.50 per child from former husband via a Mexican divorce agreement.

Her former husband Andreas is presently employed in Woodside, Queens.

EXHIBIT NO. 6

She is receiving benefits (Soc. Sec. rightfully belonging to us, for her seven children.
This you certainly know.

The newest deception has been revealed by a reliable source.

Sonya is receiving "welfare" for her seven children from Middlesex County Welfare Board in Middlesex County New Jersey (Under Aid to Dependent Children)

How can this happen?

Why hasn't there been a complete investigation as promised by the Congressman?

Why did I have to learn everything for myself?

This situation has caused extreme frustration disappointment hardships etc. to my sons and myself.

Legitimate children should certainly be rightfully provided for. My two sons have not

Please answer my questions! I at least deserve that much consideration!

EXHIBIT NO. 6

There is yet another deception involved with Sonja

14.5

Aside from illegaly authorizing a funeral director in South Plainfield New Jersey to release my husband's body in Rhode Island

and

Aside from deliberately keeping the news of my husbands death from my sons and myself, thus burying him in New Jersey,

Sonja has forged my husband name on a Federal income tax refund check in excess of $1,000.00 and admitted the forgery

Regarding the "Determination" report it stated that she wrote to Social Security office (Plainfield) in Feb. of this year.

It is urgently important that I know the contents of the letter

There has already been one forgery and possibly more.

EXHIBIT 6

This must be investigated in

fairness to me. Please help!

When Sonja married (illegally) my husband in Aug. of 1969 she was well aware of my husband's status as a married man. The marriage is invalid.

In fact she would address alimony checks to me on many occasions.

I have had to repeat all the facts once again and it certainly is annoying and grinding.

I hope it will be the last time. The truth cannot be changed.

My sons and I only want "justice". There must be some hope.

Please review my evidence and hopefully help us to regain our rightful maximum benefits.

Thank you. Very truly yours.

EXHIBIT NO. 6

516-
741-2945

Maria A. Eisenhauer

At a Special Term, Part II of the Supreme Court of the State of New York, held in and for the County of Nassau, at the Courthouse, 100 Supreme Court Drive, Mineola, New York, on the 25th day of 1971,

P R E S E N T :

HONORABLE BERNARD S. MEYER,

Justice

----------X

MARIA EISENHAUER,

Plaintiff,

DECLARATORY JUDGMENT

Index #3702/71

- against -

SONJA S. EISENHAUER, also known as SONJA S. RADAUSCHER, also known as SONJA S. JONGEBLOED,

Defendant.

----------X

The above-entitled action having been duly brought on by the plaintiff for a declaratory judgment that the plaintiff is the lawful wife of the late FRANCIS E. EISENHAUER, also known as FRANK E. EISENHAUER: that FRANCIS E. EISENHAUER, also known as FRANK E. EISENHAUER and the defendant herein were at no time husband and wife; that the marriage between plaintiff and FRANCIS E. EISENHAUER also known as FRANK E. EISENHAUER was never dissolved by divorce or annulment; that at the time of the death of said FRANCIS E. EISENHAUER also known as FRANK E. EISENHAUER, plaintiff was legally married to him; and the summons and verified complaint having been duly personally served upon the defendant without the State of New York; and the defendant not having appeared within the statutory period prescribed therefor, and her time to do so having fully expired; and the plaintiff having applied to the Court at a Special Term, Part II thereof held in

EXHIBIT NO. 16 (Page 11 of 22)

and for the County of Nassau for a judgment for the relief demanded in the verified complaint and having appeared by HERMAN YELLON, ESQ., her attorney, and having presented her verified complaint and written and oral proof of the service of the summons and verified complaint, and the defendant not having appeared upon such application, and testimony having been given in open court on the 21st day of April, 1971 before me, satisfactorily proving the allegations of the verified complaint, and the undersigned having heard and considered the proof offered and having made a decision in writing stating separately the facts found and the conclusions of law:

NOW, on motion of HERMAN YELLON, ESQ., attorney for the plaintiff, it is

ORDERED, ADJUDGED AND DECLARED, that the plaintiff and FRANCIS E. EISENHAUER also known as FRANK E. EISENHAUER were married on the 13th day of January, 1951 in the Borough of Brooklyn, City and State of New York, and that there were two issue of said marriage, to wit: BRIAN EISENHAUER and FRANK EISENHAUER, JR., and it is further

B&M JSC

ORDERED, ADJUDGED AND DECLARED, that a judgment of separation was rendered in favor of the plaintiff and against said FRANCIS E. EISENHAUER, also known as FRANK E. EISENHAUER, on August 1, 1966 by reason of which plaintiff was awarded custody of the infant children of the marriage and support for herself and support, maintenance and care for the infant children; and it is further



EXHIBIT NO. 16 (Page 12 of 23).

ORDERED, ADJUDGED AND DECLARED that FRANCIS E. EISENHAUER also known as FRANK E. EISENHAUER died on June 9, 1970 in Warwick, Rhode Island; and it is further

ORDERED, ADJUDGED AND DECLARED that FRANCIS E. EISENHAUER also known as FRANK E. EISENHAUER was at the time of his death a resident of the State of New York, to wit: 6524 Metropolitan Avenue, Middle Village, County of Queens, State of New York; and it is further

ORDERED, ADJUDGED AND DECLARED, that the marriage between the plaintiff and FRANCIS E. EISENHAUER, also known as FRANK E. EISENHAUER, was at no time dissolved or annulled and that the plaintiff, MARIA EISENHAUER is the lawful widow of FRANCIS E. EISENHAUER, also known as FRANK E. EISENHAUER.

ENTER

S/ Bernard S. Meyer

JUSTICE OF THE SUPREME COURT

Granted
May 25, 1971
Harold W. MacConnell
Clerk

EXHIBIT NO. 16 (Page 13 of 22)

F70-393 * Declatory Judgment - Supreme Court of the State of New York, County of Nassau, Mineola, New York, granted 5-25-70 70-04076

Amended 6-14-71

| | | | | |
|---|---|---|---|---|
| FRANCIS | E. | EISENHAUER | Male | June 9, 1970 |
| White | 46 | | Feb. 24, 1924 | Kent |
| Warwick | | Howard Johnson's Motor Lodge | | |
| New York | U.S.A. | Married | ~~Santo Ianniello~~ | Maria Eisenhauer |
| 120-18-7207 | Salesman | | Colton Industries, N.J. | |
| ~~Middle Village~~ ~~Garfield~~ | 10 Puba Rd., South Plainfield, N.J. / 6584 Metropolitan Ave., Middle Village, County of Queens, State of | | | 07080 New York |
| Frank | J. | Eisenhauer | Louisa | Pecandi |
| Mrs. Sonja Eisenhauer | 10 Puba Rd., So. Plainfield, N.J. 07080 | | | |

Coronary Thrombosis

No

L-3A. 6-9-70 CJ-3A. 6/9/70

Edward F Hennelly MD Dept of Anesthesiology

325 West Shore Rd. Warwick R.I. 02886

| | | |
|---|---|---|
| Burial | Holy Redeemer Cemetery | So. Plainfield N.J. |
| June 13, 1970 | Jubilee Pearson Co., 754 Broad St., Providence, R.I. | |
| 1970 | James Halliwell | June 10, 1970 |

STATE COPY

I hereby certify that this is a true copy of the record as recorded in the office of the State Registrar of Vital Statistics.

This copy issued JUL 13 1971

Myra Ohrens
State Registrar

BEST COPY OBTAINABLE

EXHIBIT NO. 16 (Page 14 of 22)

C2-10M-4-71

Nº 30529

Administration

# THE PEOPLE OF THE STATE OF NEW YORK

TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN,
SEND GREETINGS:

**KNOW YE,** That we having inspected the records of our Surrogate's Court in and for the County of Queens, do find that on the 30th day of Sept. 1971, 19, by said Court, Letters of Administration of the goods, chattels, and credits of

**FRANCIS E. EISENHAUER**

late of the County of Queens, deceased, were granted and committed unto

**MARIA EISENHAUER,**

and that it does not appear by said records that said letters have been revoked.

IN TESTIMONY WHEREOF, we have caused the Seal of the Surrogate's Court of the County of Queens to be hereunto affixed.

(Seal)

WITNESS, HON. JOHN T. CLANCY, Surrogate of our said County of Queens, the 3rd day of November 1971.

Clerk of the Surrogate's Court

EXHIBIT NO. 16 (Page 15 of 20)

A8A885C309444 AMB 68 NEW JERSEY DIVISION OF MOTOR VEHICLES 02 17 68

| LIEN INFORMATION SECURED PARTY AND ADDRESS | | PLATE NUMBER | EXPIRES | | SERIAL NUM LH | | | MAKE'S FEE PAID |
|---|---|---|---|---|---|---|---|---|
| COMM.CR.CORP | | MXG565 | 1.69 | | A8A885C309444 | | | 15 |
| 90 WASH ST | | SONJA S. RADAUSCHER EISENHAUER | | | | | | 1013496 |
| L ORANGE NJ | | 100 PUHA RD | | | SO PLFD NJ | | | 1013496 |
| 1.17.63 | DX | AMB | 68 | S | 2 | YU | | 6888-S |
| DATE OF ISSUE | SALES TAX | MAKE | YEAR | VEH. TYPE | WC GW NF | CHGO ARLES | CODE | MODEL |
| BC 2.50 | 15.00 | DN AT | | | | | | |
| C OF O FEE | REGISTRATION FEE | | | | | | | |

CERTIFICATE OF OWNERSHIP
FILE RECORD—NOT A TITLE

CO 1-A 14-67

L L 6453

BEST COPY OBTAINABLE

EXHIBIT NO. 16 (Page 16 of 22)

Western Union Telegram

352P EDT JUN 09 70 BB304 PE120 153

P PLA108 PD PLAINFIELD NJER 9 330PEDT

RHODE ISLAND MEDICAL CENTER State - Morgue
HOWARD RI H Building

PLEASE RELEASE THE REMAINS OF MY HUSBAND FRANCIS E EISENHOWER TO JUHLIN PEARSON CO FUNERAL DIRECTORS 754-756 BROAD ST PROVIDENCE RI

MRS SONJA EISENHOWER

(330).

163 790 RJ

E 430P Mid

F-1201 (R6-69)

EXHIBIT NO. 16 (Page 7 of 22)

New Hope Pennsylvania
May 26, 1972

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Department of
Health, Education and Welfare
Social Security Administration
330 Independence Avenue, S.W.
Washington, D.C.

Gentlemen:

I am [illegible]
because [illegible]
my [illegible]
are [illegible]

This is [illegible]
other [illegible]
benefit [illegible]
is [illegible]
my [illegible]
husband [illegible]

EXHIBIT NO. 16

When my husband died on
June 9, 197[illegible] in Rhode Island,
I was not notified. We were
[illegible]ted [illegible]

EXHIBIT NO. 16

I received my [illegible]
[illegible] in
after months of [illegible]

I was relieved to know
my sons and I would
receive maximum benefits.
This was as it should

There were [illegible]
letters from Social Security
advising me that there would
be only changes and

When I received [illegible]
dated [illegible], 19[illegible]
such [illegible]
ized [illegible]
Mich [illegible]
next [illegible]
went [illegible]
in Mi[illegible] and several forms
were filled out.

EXHIBIT NO. 16 (Page [illegible])

Why are my sons and I
[illegible] denied benefits [illegible] this

[illegible] should [illegible] be [illegible] other
benefits. [illegible]
declaring judgment [illegible]
Dan the legal widow [illegible]
two sons are legal sons [illegible]
husband and [illegible] were
married in January [illegible]

My husband, [illegible]
in [illegible]
[illegible]
father of [illegible]

Pla[illegible] investi[illegible]
soon. [illegible]

[illegible]
seek [illegible]
not [illegible]
going [illegible]
a [illegible]

Our benefits must not be
denied or even reduced as is
threatened! I don't want us to
lose our home

EXHIBIT NO. 16 (Page 1 of 2)

[illegible] denied. Why has [illegible] been denied?

[illegible] called me back [illegible] office to explain [illegible] did not mail [illegible] since there [illegible] delay [illegible] or [illegible] as I've [illegible] no legal [illegible] new [illegible] referred to one of [illegible] who [illegible] my [illegible] to be a [illegible] because [illegible] He [illegible] called [illegible] This [illegible]

I feel that I have a right to ask questions and continue to ask questions. I want to know the complete details of any other claims. Please help

EXHIBIT NO. 16 (Page [illegible] of [illegible])

I am enclosing important papers. Thank you so much for any consider

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

Form Approved.
Budget Bureau No. 72—R0129.

# APPLICATION FOR LUMP-SUM DEATH PAYMENT*

(This application must be filed within 2 years after the date of death of the wage earner or self-employed person.)

(Do not write in this space)
153
T 2LL

NOTICE—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a $1,000 fine or 1 year of imprisonment, or both.

Enter name of deceased wage earner or self-employed person (*Herein referred to as the deceased*)
FRANCIS EISENHAUER

(*Check one*) ☒ Male ☐ Female

Enter his (her) Social Security Number 130 | 18 | 7292

Enter your full name here
Sonja Eisenhauer

I hereby apply for the lump-sum death payment and for any insurance benefits payable to me under Title II of the Social Security Act, as amended.

1. Enter the date of birth of the deceased (*Month, day, and year*) 2/24/24

2. Enter the date and place of death (*Month, day, and year*) 6/9/20 — *City and State* Warwick, R. I.

3. (a) Was the deceased in active military or naval service after September 7, 1939? . . . ☒ YES ☐ NO
(*If "Yes," answer (b) and (c). If "No," go on to item 4*)

(b) Enter name of service branch and dates of service
Army 10/7/43 – 3/13/46

(c) Has anyone (including the deceased) received, or does anyone expect to receive, from any Federal agency other than the Social Security Administration, a benefit based on the employment, military service, disability, or death of the deceased? . . . . . ☒ YES ☐ NO
(*If "Yes," enter name(s) of such person(s) and name(s) of Federal agency(ies).*)
V.A. – for kids

4. Did the deceased work in the railroad industry at any time on or after January 1, 1937? . . . . . ☐ YES ☒ NO

5. • Enter the names and addresses of all the persons, companies, or Government agencies for whom the deceased worked during the 12 months before death.
• If the deceased worked in agricultural employment, give this information for the year of death and the year before.
• If neither of the above applies, write "None" below and go on to item 6.

| NAME AND ADDRESS OF EMPLOYER (If the deceased had more than one employer, please list them in order beginning with last (most recent) employer) | WORK BEGAN Month | WORK BEGAN Year | WORK ENDED Month | WORK ENDED Year |
|---|---|---|---|---|
| (Was insured self-employed) Sutton Industries 212 Durham Ave. Metuchen, N. J. (08840) | Prior to 12 months | | 6 | 20 |

(*Use "Remarks" space on back page for information about any other employers.*)

6. Was the deceased self-employed this year, last year, or the year before?
☐ YES (*If "Yes," answer item 7*) ☒ NO (*If "No," go on to item 8*)

| 7. Check the year or years in which the deceased was self-employed | In what kinds of trade or business was the deceased self-employed? | Were the deceased's net earnings from his trade or business $400 or more? (*Check "Yes" or "No"*) |
|---|---|---|
| ☐ This year | | ☐ YES ☐ NO |
| ☐ Last year | | ☐ YES ☐ NO |
| ☐ Year before last | | ☐ YES ☐ NO |

* This may also be considered an application for insurance benefits payable under Section 5 of the Railroad Retirement Act.

FORM SSA-8 (1-70) (*Over*)

EXHIBIT NO. M (Page 1 of 4)

8. (a) About how much did the deceased earn from employment and self-employment during the year in which he died? → Amount $ none 7800.00

*If death occurred this year, answer (b). If not, go on to item 9.*

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(b) About how much did the deceased earn last year? → Amount $ none 7800.00

9. Was the deceased ever married? ☐ YES *(If "Yes," give the following information about all marriages of the deceased including marriage in effect at time of death)* ☐ NO

| | To whom married | When (Mo., day, and year) | Where (Enter name of City and State) |
|---|---|---|---|
| Last marriage of the deceased | Maria Abonesi (Married) | 1/13/1951 | Brooklyn, N.Y. |
| | How marriage ended: They were separated about 1967 and we are waiting for a divorce to be granted, no other women involved | | |
| Previous marriage of the deceased | To whom married | When (Mo., day, and year) | Where (Enter name of City and State) |
| | How marriage ended | | |
| Previous marriage of the deceased | To whom married | When (Mo., day, and year) | Where (Enter name of City and State) |
| | How marriage ended | When (Mo., day, and year) | Where (Enter name of City and State) |

*(Use "Remarks" space on back page for information about any other marriage)*

Not sure

If the deceased left a widow or widower surviving, continue with item 10. If not, go on to item 18.

10. If you are not the widow or widower, enter (her) (his) name and address here

11. (a) Were the deceased and the surviving spouse living together at the same address when the deceased died? ☐ YES ☐ NO

(b) If either the deceased or surviving spouse was away from home (whether or not temporarily) when the deceased died, give the following:

Which was away? ☐ Deceased ☐ Surviving spouse

Date last home June 1967

Reason absence began

Reason they were apart at time of death: marital problems.

If hospitalized, enter name of hospital and nature of illness or disabling condition

If you are the widow or widower, answer items 12, 13, 14, 15, 16 and 17.

12. Enter your date of birth *(Month, day and year)*

13. If you are the widow, enter your maiden name

14. (a) If you are age 50 or over, are you unable to work because of a disabling condition? ☐ YES *(If "Yes," answer (b))* ☐ NO *(If "No," go on to item 15)*

(b) Enter date on which your disabling condition began → Month, day, year

15. If you are the widower, were you receiving at least one-half of your support from your wife at the time of her death? ☐ YES ☐ NO

EXHIBIT NO. 17 (Page 2 of 4)

16. Check (✓) whether your marriage to the deceased was performed by:
Clergyman or authorized public official ☐, or Other ☐ ..... 161.
(Explain)

17. Were you married before your marriage to the deceased? ..... ☐ YES ☐ NO
(If "Yes," give the following about each of your previous marriages)

| | | | |
|---|---|---|---|
| Previous marriage | To whom married | When (Mo., day, and year) | Where (Enter name of City and State) |
| | How marriage ended | When (Mo., day, and year) | Where (Enter name of City and State) |
| Previous marriage | To whom married | When (Mo., day, and year) | Where (Enter name of City and State) |
| | How marriage ended | When (Mo., day, and year) | Where (Enter name of City and State) |
| Previous marriage | To whom married | When (Mo., day, and year) | Where (Enter name of City and State) |
| | How marriage ended | When (Mo., day, and year) | Where (Enter name of City and State) |

(Use "Remarks" space on back page for information about any other previous marriage)

If you are not the widow or widower, or if you are the widow or widower but you and the deceased were not living in the same household at the time of death, answer the following questions.

18. (a) What was the total amount of the burial expenses charged by the funeral home(s) (hereafter referred to as "burial expenses")? → approx $ 1500.00

(b) Did you assume responsibility for payment of any part of the burial expenses? ... ☒ YES ☐ NO

(c) What amount of burial expenses shown in (a) above did you pay? → (If none, write "None") $ 500.00

19. (a) What is your relationship to the deceased?
common - law wife

(b) If you are a parent of the deceased, were you receiving one-half of your support from the deceased at the time of death? ..... ☐ YES ☐ NO

20. If you are not related to the deceased by blood, marriage, or adoption why did you assume responsibility for or pay the burial expenses? (If you are related, omit this item)

21. Has an application for the burial allowance been filed (or will it be filed) with the Veterans' Administration, other Federal agency of the U.S., or (if death occurred outside the U.S.) any foreign governmental agency?
☐ YES (If "Yes," give the following information) ☐ NO (If "No," go on to item 22)

| Name of Agency | Amount Claimed |
|---|---|
| ☒ Veterans Administration | $ 250.00 |
| ☐ Other (Give name) EXHIBIT NO. 17 | (Page 3 of 4) |

Name of Person Filing With Other Agency Conroy F/H. S. Plainfield NJ

22. If you have paid part or all of the burial expenses, have you received or will you receive any cash or property toward the expenses? (Do not include proceeds from an insurance policy or death benefits from a fraternal association, union, or employer.) 162

☐ YES *(If "Yes," give the following information)* ☒ NO *(If "No," go on to item 23.)*

| Source of payment | Date received or expected | Amount |
|---|---|---|
| | | $ |
| | | $ |

23. Did anyone else assume responsibility for payment of or pay any part of the burial expenses in 18(a)?

☐ YES *(If "Yes," give the following information)* ☒ NO

| Name and address of other person who assumed responsibility or paid | His relationship to deceased | Amount paid by such other person, if any |
|---|---|---|
| | | $ |
| | | $ |

If any of the burial expenses shown in 18(a) are unpaid, the lump-sum payment (or that part of it equal to the unpaid expenses) can be made ONLY to the funeral home(s). To authorize such payment, the following must be completed.

24. I hereby authorize the Social Security Administration to make payment or give notice of nonpayment of the lump-sum to the

Conroy Funeral Home
2456 Plainfield Ave. / South Plainfield, NJ
*(Name(s) and address(es) of funeral home(s))*

Payment, if made, is to be applied toward the unpaid $ 1800.00 *(Amount)* expenses.

**Remarks:** *(You may use this space for any explanations. If you need more space, attach a separate sheet.)*

His legal wife - Maria Eisenhauer lives at 43 Birchwood Dr., New Hyde Park, N.Y. - 11040. He has two children by her - Brian - DOB - 1/13/55 & Francis DOB - 10/[illegible]/58

I know that anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law. I affirm that the above statements are true.

**SIGNATURE OF WITNESSES**

If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full address.

1. Signature

Address *(Number and street, City, State, and ZIP Code)*

2. Signature

Address *(Number and street, City, State, and ZIP Code)*

**SIGNATURE OF APPLICANT**

Signature *(First name, middle initial, last name)* *(Write in ink)*

Sign Here ➧ Sonja S. R. Eisenhauer

Mailing address *(Number and street, Apt. No., P.O. Box or Rural Route)* 100 Puka Rd.

City and State S. Plainfield N.J. | Zip Code 07080

Date *(Mo., day and year)* 9/23/20 | Telephone number 754-8747

Enter name of county *(if any)* in which you now live Middlesex

EXHIBIT NO. 17 (Page 4 of 4)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

Form Approved.
Budget Bureau No. 72-R0122

(Do not write in this space)
163

# APPLICATION FOR SURVIVING CHILD'S INSURANCE BENEFITS*

NOTICE—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a $1,000 fine or 1 year of imprisonment, or both.

| Enter Name of Deceased Wage Earner or Self-Employed Person (*Herein referred to as the "deceased"*) | (*Check one*) ☐ Male ☐ Female | Enter His Social Security Number |
|---|---|---|
| Francis Eisenhauer | | 130 \| 18 \| 729 |

Enter Your Full Name: Sonja Eisenhauer

I hereby apply, on behalf of the child or children listed in item 9 below, for all insurance benefits payable to them under Title II of the Social Security Act, as amended. (*If you are applying on your own behalf, answer the questions in Part II of this form with respect to yourself.*)

## PART I—INFORMATION ABOUT THE DECEASED

1. Enter the date of birth of the deceased (*Month, Day and Year*): 2/24/24

2. Enter the date and place of death (*Month, Day and Year*): 6/9/52 (*City and State*)

3. Enter the name of the state or foreign country where the deceased had his fixed, permanent home at the time of his death → State or Foreign Country

4. (a) Was the deceased in active military or naval service after September 7, 1939? ☐ Yes ☐ No
(*If "Yes," answer (b) and (c). If "No," go on to item 5.*)

(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.

(c) Has anyone (including the deceased) received, or does anyone expect to receive, from any Federal agency other than the Social Security Administration, a benefit based on the employment, military service, disability, or death of the deceased? ☐ Yes ☐ No
(*If "Yes," enter name(s) of such person(s) and name(s) of Federal agency(ies).*)

5. Did the deceased work in the railroad industry at any time on or after January 1, 1937? ☐ Yes ☐ No

6. • Enter the names and addresses of all the persons, companies or government agencies for whom the deceased worked during the 12 months before death. (*If none, write "None"*)
• If the deceased worked in agricultural employment, give this information for the year of death and the year before.

| NAME AND ADDRESS OF EMPLOYER<br>If the deceased had more than one employer, please list them in order beginning with last (most recent) employer. | WORK BEGAN Month | WORK BEGAN Year | WORK ENDED Month | WORK ENDED Year |
|---|---|---|---|---|
| | | | | |
| | | | | |

*Use "Remarks" space on last page for information about any other employers.*

7. (a) Was the deceased self-employed this year, last year, or the year before?
☐ Yes (*If "Yes," answer (b).*) ☐ No (*If "No," go on to item 8.*)

| (b) Check the year or years in which the deceased was self-employed | In what kind of trade or business was the deceased self-employed? | Were the deceased's net earnings $400 or more? |
|---|---|---|
| ☐ This Year | | ☐ Yes ☐ No |
| ☐ Last Year | | ☐ Yes ☐ No |
| ☐ Year Before Last | | ☐ Yes ☐ No |

* This may also be considered an application for survivors benefits under section 5 of the Railroad Retirement Act and for Veterans Administration payments under Title 38 U.S.C., Veterans Benefits, Chapter 13, (which is the equivalent of) application for other types of death benefits under Title 38).

EXHIBIT NO. 18 (Pages 1 of 4)

FORM SSA-8 (1-70)

8. (a) About how much did the deceased earn from employment and self-employment during the year in which he died? → Amount $ 164

*If death occurred this year, answer (b). If not, go on to item 9.*

(b) About how much did the deceased earn last year? → Amount $

**PART II—INFORMATION ABOUT SURVIVING CHILDREN OF THE DECEASED**

9. Are there ANY surviving children (including natural children, adopted children and stepchildren) who, at any time since the parent died, were UNMARRIED and:

- UNDER AGE 18 ☒ Yes ☐ No
- AGE 18 TO 22 AND ATTENDING SCHOOL ☐ Yes ☒ No
- DISABLED (age 18 or over and disability began before age 18) ☐ Yes ☒ No

*(List ALL such children in order of birth beginning with the oldest.)*

| | CHECK (✓) SEX OF CHILD | | DATE OF BIRTH (Mo., day, yr.) | Check (✓) If Child 18 or Over is Student or Disabled | | Check (✓) the Column That Shows Child's Relationship to Worker | | | |
|---|---|---|---|---|---|---|---|---|---|
| | M | F | | Student | Disabled | Legitimate | Adopted | Stepchild | Other |
| FULL NAME OF CHILD: Brian Eisenhower<br>CHILD'S SOCIAL SECURITY NUMBER: none | ✓ | | 1/13/50 | | | ✓ | | | |
| FULL NAME OF CHILD: Francis X. Eisenhower<br>CHILD'S SOCIAL SECURITY NUMBER: none | ✓ | | 10/1/58 | | | ✓ | | | |
| FULL NAME OF CHILD: Frances E. Eisenhower<br>CHILD'S SOCIAL SECURITY NUMBER: none | | | 7/22/63 | | | | | | ✓ |
| FULL NAME OF CHILD: Sonja J. Eisenhower<br>CHILD'S SOCIAL SECURITY NUMBER: none | | ✓ | 2/26/69 | | | | | | ✓ |

Children by legal wife

*If you are not applying for any child you name, enter the child's name under "Remarks" (page 4 of this form) and explain why you are not applying for such child. You may apply for a child even though you do not wish to be the payee for the child's benefits.*

10. Enter below your relationship to each of the children named in item 9. (For example, mother, adoptive father, stepmother, myself, uncle, sister, none, etc. If you are related in the same way to all the children, write "All" and then show your relationship.)

| Name of Child(ren) | Your Relationship | Name of Child(ren) | Your Relationsh |
|---|---|---|---|
| Francis B | Mother | | |
| Sonja — | | | |
| Ursula — | | | |

11. If any children in item 9 are stepchildren of the deceased, enter the date the deceased married the natural parent. → Date of Marriage

12. Have any children in item 9 ever been adopted by someone other than the deceased? ☐ Yes ☒ No
*(If "Yes," enter the following information):*

| Name of Child | Name of Person Adopting | Relationship, if any, before adoption | Date of Adoption |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

EXHIBIT NO. 18 (Page 2 of 4)

13. Were all the children in item 9 living with the deceased at the time of death? ☒ Yes ☐ No
*(If "No," enter the following information about each child who was not living with the deceased.)*

| Name of Child Not Living With Deceased | Person With Whom Child Was Living | |
|---|---|---|
| | Name and Address | Relationship to Child |
| Brian & Francis X | Maria Josephine Sawyer 43 Birchwood Dr New Hyde Park N.Y. | mother |

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14. Are all the children in item 9 now living in the same household with you? ☒ Yes ☐ No
*(If "No," enter the following information about each child not living with you. If uncertain as to the whereabouts of any of these children, explain under "Remarks" on last page.)*

| Name of Child Not Living With You | Person With Whom Child Now Lives | |
|---|---|---|
| | Name and Address | Relationship to Child |
| Except those listed in item 13 | | |

15. Has any child in item 9 ever been married? ☐ Yes ☒ No
*(If "Yes," enter the information requested below.)*

| Name of Child | Date of Marriage (*Month, Day, Year*) |
|---|---|
| How Marriage Ended (*If still married write "Not Ended"*) | Date Marriage Ended (*Month, Day, Yea* |

16. Has anyone ever before filed an application with the Social Security Administration for monthly benefits on behalf of any child in item 9? ☐ Yes ☒ No
*(If "Yes," enter name and social security number of person on whose earnings record any other claim was based.)*

| Name of Wage Earner or Self-Employed Person | Social Security Number (*If unknown, so indicate* |
|---|---|
| | |

17. Do you understand that all payments made to you on behalf of a child must be spent for his present needs or (if not presently needed) saved for his future needs, and do you agree to use the benefits that way? ☒ Yes ☐ No

18. Do you agree to notify the Social Security Administration promptly when your address and/or the address of any child is changed or if you no longer have responsibility for the welfare and care of any child for whom you are filing? ☒ Yes ☐ No

If you are applying ONLY for a child age 18 or over who is disabled, you may omit items 19, 20, and 21 and go on to item 22. In all other cases, items 19, 20 and 21 must be answered.

under 1680.00 in 1971

**Please read the following information before going on to Item 19.**

Some or all of a child's benefits may not be payable if the child earns more than $1,680 in a year.* If he earns more than $1,680, benefits may be withheld for any month in which he earns more than $140 in wages or performs substantial services in self-employment. Count the gross wages (not the take-home pay) earned during the year, regardless of when the wages are paid. Count the net earnings from self-employment (after deducting allowable business expenses). Include all earnings from employment and self-employment, whether or not the work is covered by social security.

19. (a) Do you expect the total earnings of any child to be more than $1,680 this year? (Count all earnings beginning with the first of this year and all anticipated earnings through the end of this year.) ☐ Yes ☒ No
*(If "Yes," answer (b). If "No," go on to item 20)*

| (b) Name of Child Who Expects To Earn Over $1,680 This Year | Expected Earnings | List Each Month (*including the present month*) That Child Did Not Earn More Than $140 In Employment and Did Not Perform Substantial Services in Self-Employment |
|---|---|---|
| | $ | |
| | $ | |

* The yearly period referred to in this and subsequent items is the same 12-month period used in figuring income taxes. If any of the children for whom you are filing use a fiscal year (one that does not end on December 31), enter here the name of the child and the month the fiscal year ends.

Name of Child and Month Fiscal Year Ends

EXHIBIT NO. 18 (Page 3 of 4)

(Over)

20. Complete this item only if the deceased died before this year.
(a) Did any child earn more than $1,680 last year? ☐ Yes ☒ No

(If "Yes," answer (b). If "No," go on to item 21.)

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| (b) Name of Child Who Earned Over $1,680 Last Year | Total earnings of child | List each month that child did not earn more than $140 in employment and did not perform substantial services in self-employment |
|---|---|---|
| | $ | |
| | $ | |

An annual report of earnings must be filed with the Social Security Administration within 3 months and 15 days after the end of any year in which any child earned more than $1,680 and received some benefit payment for a month in that year. FAILURE TO REPORT MAY RESULT IN THE LOSS OF ONE OR MORE MONTHLY BENEFITS.

21. Do you agree to file the annual report of earnings when required? ☒ Yes ☐ No

YOU MUST NOTIFY THE SOCIAL SECURITY ADMINISTRATION PROMPTLY IF:

- Any child MARRIES, DIES, or is ADOPTED
- A student, age 18 - 22, STOPS ATTENDING SCHOOL, REDUCES HIS SCHOOL ATTENDANCE BELOW FULL-TIME, CHANGES SCHOOLS, or IS PAID BY HIS EMPLOYER TO ATTEND SCHOOL
- A disabled child, age 18 or over, DISABLING CONDITION IMPROVES, GOES TO WORK, or if now hospitalized is DISCHARGED FROM THE HOSPITAL.

Benefits may end if any of the above events occur. However, there are certain exceptions which are explained in the informational booklet which you will receive. You must report each of these events even if you believe an exception applies. We will advise you whether additional evidence is needed and how the benefits may be affected.

22. Do you agree to notify the Social Security Administration promptly if any of the above events occur, and to promptly return any benefit check you receive for a child which is not due? ☒ Yes ☐ No

Remarks: (You may use this space for any explanations. If you need more space attach a separate sheet.)
(5) Ursula M. Eisenhauer (no s/s) F - 4/15/58 - allegations Francis Eisenhauer the father was living with & supporting the children completely. He died while working in a shop in R.I. - he was an engineer.

I know that anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law. I affirm that the above statements are true. Working for Gulton Industries,

| SIGNATURE OF WITNESSES | SIGNATURE OF APPLICANT |
|---|---|
| If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses. | Signature (First name, middle initial, last name) (Write in ink) |
| 1. Signature | Sign Here ➧ Sonja D.P. Eisenhauer |
| Address (Number and Street, City, State and ZIP Code) | Mailing Address (Number and Street, Apt. No., P.O. Box, or Rural Route) 100 Puha Rd. |
| 2. Signature | City and State S. Th Plainfield NJ. 07080 |
| Address (Number and Street, City, State and ZIP Code) | Date (Mo., day and year) 9/23/80 Telephone number 754-8242 |
| EXHIBIT NO. 18 (Page 1 of 1) | Enter name of county (if any) in which you now live Middlesex |

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

2K1*

Form Approved.
Budget Bureau No. 72-R014

(Do not write in this space)
PLAINFIELD, NEW JERSEY
07060
167
APR 28 19??
21139
SSA BRANCH OFFICE

# APPLICATION FOR SURVIVING CHILD'S INSURANCE BENEFITS*

NOTICE—Whoever makes or causes to be made any false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act is subject to not more than a $1,000 fine or 1 year of imprisonment, or both.

Enter Name of Deceased Wage Earner or Self-Employed Person (*Herein referred to as the "deceased"*)
FRANCIS E. EISENHAUER

(*Check one*) ☒ Male ☐ Female

Enter His Social Security Number
130 | 18 | 7297

Enter Your Full Name
SONJA S. R. EISENHAUER

I hereby apply, on behalf of the child or children listed in item 9 below, for all insurance benefits payable to them under Title II of the Social Security Act, as amended. (*If you are applying on your own behalf, answer the questions in Part II of this form with respect to yourself.*)

## PART I—INFORMATION ABOUT THE DECEASED

1. Enter the date of birth of the deceased (*Month, Day and Year*)
2-24-24

2. Enter the date and place of death (*Month, Day and Year*) (*City and State*)
6/9/70 Howard Beach N.Y.

3. Enter the name of the state or foreign country where the deceased had his fixed, permanent home at the time of his death. → State or Foreign Country
N.Y.

4. (a) Was the deceased in active military or naval service after September 7, 1939? (*If "Yes," answer (b) and (c). If "No," go on to item 5.*) ☒ Yes ☐ No

(b) Enter name of branch (Army, Navy, etc.), country served (if other than U.S.) and dates of service.
U.S. Army 1/14/43 - 3/13/46

(c) Has anyone (including the deceased) received, or does anyone expect to receive, from any Federal agency other than the Social Security Administration, a benefit based on the employment, military service, disability, or death of the deceased? ☐ Yes ☒ No

(*If "Yes," enter name(s) of such person(s) and name(s) of Federal agency(ies).*)

5. Did the deceased work in the railroad industry at any time on or after January 1, 1937? ☐ Yes ☒ No

6. • Enter the names and addresses of all the persons, companies or government agencies for whom the deceased worked during the 12 months before death. (*If none, write "None"*)
• If the deceased worked in agricultural employment, give this information for the year of death and the year before.

| NAME AND ADDRESS OF EMPLOYER<br>If the deceased had more than one employer, please list them in order beginning with last (most recent) employer. | WORK BEGAN | | WORK ENDED | |
|---|---|---|---|---|
| | Month | Year | Month | Year |
| Gulton Industries<br>Metuchen N.J. | 8 | 66 | 6 | 70 |
| | | | | |

*Use "Remarks" space on last page for information about any other employers.*

7. (a) Was the deceased self-employed this year, last year, or the year before? ☐ Yes (*If "Yes," answer (b).*) ☒ No (*If "No," go on to item 8.*)

| (b) Check the year or years in which the deceased was self-employed | In what kind of trade or business was the deceased self-employed? | Were the deceased's net earnings $400 or more? |
|---|---|---|
| ☐ This Year | | ☐ Yes ☐ No |
| ☐ Last Year | | ☐ Yes ☐ No |
| ☐ Year Before Last | | ☐ Yes ☐ No |

* This may also be considered an application for survivors benefits under section 5 of the Railroad Retirement Act and for Veterans Administration payments under Title 38 U.S.C., Veterans Benefits, Chapter 13, (which is, as such, an application for other types of death benefits under Title 38).

FORM SSA-6 (1-70)

EXHIBIT P.O. #1 (Page 1 of 4)

8. (a) About how much did the deceased earn from employment and self-employment during the year in which he died? → Amount $ 7800 168

*If death occurred this year, answer (b). If not, go on to item 9.*

(b) About how much did the deceased earn last year? → Amount $

**PART II—INFORMATION ABOUT SURVIVING CHILDREN OF THE DECEASED**

9. Are there ANY surviving children (including natural children, adopted children and stepchildren) who, at any time since the parent died, were UNMARRIED and:

- UNDER AGE 18 ☒ Yes ☐ No
- AGE 18 TO 22 AND ATTENDING SCHOOL ☐ Yes ☒ No
- DISABLED (age 18 or over and disability began before age 18) ☐ Yes ☒ No

*(List ALL such children in order of birth beginning with the oldest.)*

| | CHECK (✓) SEX OF CHILD | | DATE OF BIRTH (Mo., day, yr.) | Check (✓) if Child 18 or Over is Student or Disabled | | Check (✓) the Column That Shows Child's Relationship to Worker | | | |
|---|---|---|---|---|---|---|---|---|---|
| | M | F | | Student | Disabled | Legitimate | Adopted | Stepchild | Other |
| FULL NAME OF CHILD: Monika RADAUSCHER<br>CHILD'S SOCIAL SECURITY NUMBER: 148-52-5597 | | ✓ | 6/30/58 | | | | | ✓ | |
| FULL NAME OF CHILD: ANDREAS RADAUSCHER<br>CHILD'S SOCIAL SECURITY NUMBER: 148-52-5588 | ✓ | | 11/7/59 | | | | | ✓ | |
| FULL NAME OF CHILD: ERICH RADAUSCHER<br>CHILD'S SOCIAL SECURITY NUMBER: 148-52-5578 | ✓ | | 2/15/61 | | | | | ✓ | |
| FULL NAME OF CHILD: WILHELM RADAUSCHER<br>CHILD'S SOCIAL SECURITY NUMBER: 148-52-5568 | ✓ | | 6/2/64 | | | | | ✓ | |

*If you are not applying for any child you name, enter the child's name under "Remarks" (page 4 of this form) and explain why you are not applying for such child. You may apply for a child even though you do not wish to be the payee for the child's benefits.*

10. Enter below your relationship to each of the children named in item 9. (For example, mother, adoptive father, stepmother, myself, uncle, sister, none, etc. If you are related in the same way to all the children, write "All" and then show your relationship.)

| Name of Child(ren) | Your Relationship | Name of Child(ren) | Your Relationship |
|---|---|---|---|
| all | mother | | |
| | | | |
| | | | |

11. If any children in item 9 are stepchildren of the deceased, enter the date the deceased married the natural parent. → Date of Marriage

12. Have any children in item 9 ever been adopted by someone other than the deceased? ☐ Yes ☒ No

*(If "Yes," enter the following information:)*

| Name of Child | Name of Person Adopting | Relationship, if any, before adoption | Date of Adoption |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

EXHIBIT NO. 19 (Page 2 of 4)

13. Were all the children in item 9 living with the deceased at the time of death? ☒ Yes ☐ No

*(If "No," enter the following information about each child who was not living with the deceased.)*

| Name of Child Not Living With Deceased | Person With Whom Child Was Living | |
|---|---|---|
| | Name and Address | Relationship to Child |
| | | |
| | | |

14. Are all the children in item 9 now living in the same household with you? ☒ Yes ☐ No

*(If "No," enter the following information about each child not living with you. If uncertain about the whereabouts of any of these children, explain under "Remarks" on last page.)*

| Name of Child Not Living With You | Person With Whom Child Now Lives | |
|---|---|---|
| | Name and Address | Relationship to Child |
| | | |
| | | |

15. Has any child in item 9 ever been married? ☐ Yes ☒ No

*(If "Yes," enter the information requested below.)*

| Name of Child | Date of Marriage (Month, Day, Year) |
|---|---|
| How Marriage Ended (If still married write "Not Ended") | Date Marriage Ended (Month, Day, Year) |

16. Has anyone ever before filed an application with the Social Security Administration for monthly benefits on behalf of any child in item 9? ☐ Yes ☒ No

*(If "Yes," enter name and social security number of person on whose earnings record any other claim was filed.)*

| Name of Wage Earner or Self-Employed Person | Social Security Number (If unknown, so indicate) |
|---|---|
| | |

17. Do you understand that all payments made to you on behalf of a child must be spent for his present needs or (if not presently needed) saved for his future needs, and do you agree to use the benefits that way? ☒ Yes ☐ No

18. Do you agree to notify the Social Security Administration promptly when your address and/or the address of any child is changed or if you no longer have responsibility for the welfare and care of any child for whom you are filing? ☒ Yes ☐ No

If you are applying ONLY for a child age 18 or over who is disabled, you may omit items 19, 20, and 21 and go on to item 22. In all other cases, items 19, 20 and 21 must be answered.

**Please read the following information before going on to Item 19.**

Some or all of a child's benefits may not be payable if the child earns more than $1,680 in a year.* If he earns more than $1,680, benefits may be withheld for any month in which he earns more than $140 in wages or performs substantial services in self-employment. Count the gross wages (not the take-home pay) earned during the year, regardless of when the wages are paid. Count the net earnings from self-employment (after deducting allowable business expenses). Include all earnings from employment and self-employment, whether or not the work is covered by social security.

19. (a) Do you expect the total earnings of any child to be more than $1,680 this year? (Count all earnings beginning with the first of this year and all anticipated earnings through the end of this year.) ☐ Yes ☒ No

*(If "Yes," answer (b). If "No," go on to item 20.)*

| (b) Name of Child Who Expects To Earn Over $1,680 This Year | Expected Earnings | List Each Month (including the present month) That Child Did Not Earn More Than $140 In Employment and Did Not Perform Substantial Services in Self-Employment |
|---|---|---|
| | $ | |
| | $ | |

* The yearly period referred to in this and subsequent items is the same 12-month period used in figuring income taxes. If any of the children for whom you are filing use a fiscal year (one that does not end on December 31), enter here the name of the child and the month the fiscal year ends. → Name of Child and Month Fiscal Year Ends

EXHIBIT NO. 19 (page 3 of 4)

(Over)

20. Complete this item only if the deceased died before this year.
(a) Did any child earn more than $1,680 last year? ☐ Yes ☒ No

*(If "Yes," answer (b). If "No," go on to item 21.)*

| (b) Name of Child Who Earned Over $1,680 Last Year | Total earnings of child | List each month that child did not earn more than $140 in employment and did not perform substantial services in self-employment |
|---|---|---|
| | $ | |
| | $ | |

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An annual report of earnings must be filed with the Social Security Administration within 3 months and 15 days after the end of any year in which any child earned more than $1,680 and received some benefit payment for a month in that year. FAILURE TO REPORT MAY RESULT IN THE LOSS OF ONE OR MORE MONTHLY BENEFITS.

21. Do you agree to file the annual report of earnings when required? ☒ Yes ☐ No

YOU MUST NOTIFY THE SOCIAL SECURITY ADMINISTRATION PROMPTLY IF:

- Any child MARRIES, DIES, or is ADOPTED
- A student, age 18 to 22, STOPS ATTENDING SCHOOL, REDUCES HIS SCHOOL ATTENDANCE BELOW FULL-TIME, CHANGES SCHOOLS, or IS PAID BY HIS EMPLOYER TO ATTEND SCHOOL
- A disabled child, age 18 or over, DISABLING CONDITION IMPROVES, GOES TO WORK, or if now hospitalized is DISCHARGED FROM THE HOSPITAL.

Benefits may end if any of the above events occur. However, there are certain exceptions which are explained in the informational booklet which you will receive. You must report each of these events even if you believe an exception applies. We will advise you whether additional evidence is needed and how the benefits may be affected.

22. Do you agree to notify the Social Security Administration promptly if any of the above events occur, and to promptly return any benefit check you receive for a child which is not due? ☒ Yes ☐ No

Remarks: *You may use this space for any explanations. If you need more space, attach a separate sheet.*
I have previous filed for my 3 children Frankie, Sonja, and Ursula. I was divorced from my first husband Andrew Radanovich in 3/66 (Queens Supreme)

I know that anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law. I affirm that the above statements are true.

**SIGNATURE OF WITNESSES**

If this application has been signed by mark (X), two witnesses who know the applicant must sign below, giving their full addresses.

1. Signature

Address *(Number and Street, City, State and ZIP Code)*

2. Signature

Address *(Number and Street, City, State and ZIP Code)*

**SIGNATURE OF APPLICANT**

Signature *(First name, middle initial, last name)* (Write in ink)

Sign Here ➧ Sonja S. R. Eisenhauer

Mailing Address *(Number and Street, Apt. No., P.O. Box, or Rural Route)*
100 PUHA RD.

City and State
So. PLAINFIELD NJ

ZIP Code
07080

Date *(Month, day and year)*
4/26/72

Telephone number
754-8747

Enter name of county, if any, in which you now live
MIDDLESEX

EXHIBIT NO. 19 (Page 1 of 4)

# Certificate of Marriage

## State of Maryland

CECIL COUNTY

LICENSE NO. 43902

I Hereby Certify that on the 14th day of August 1969 the following persons were by me united in marriage at [illegible] (City or Town) in accordance with the License of the Clerk of the Court in the jurisdiction shown above

Groom's Name Francis E. Eisenhower Age 45 Color W. Birthplace N.Y.

Residence Middle Village, N.Y. (Town or City) (County) (State) Marital Status Never Married

Bride's Name Sonja S. Radauscher Age 30 Color W. Birthplace Germany

Residence South Plainfield, N.J. (Town or City) (County) (State) Marital Status Divorced

Relationship to groom if any None

[illegible]
Signature of Officiating Clergyman or Official

License Date August 14 1969

[illegible]
Official Capacity

[illegible]
Address of Clergyman or Official

[illegible]

EXHIBIT NO. 20 (Page 1 of 1)

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NEW YORK STATE DEPARTMENT OF HEALTH
OFFICE OF VITAL RECORDS
ALBANY

# CERTIFICATE OF BIRTH REGISTRATION

*This is to certify that a birth certificate has been filed for*

FRANCIS EUGENE EISENHAUER

*Born on* July 27th, 1966, *at* Port Jefferson (City, Village, Town), N. Y.

*Son, ~~Daughter~~ of* Francis Eugene Eisenhauer (name of father) *and*

Sonja Susanna Jongebloed
(maiden name of mother)

Doris L. Sheehan
LOCAL REGISTRAR

*Date Filed* August 2nd, 1966

Village Hall, Port Jefferson, N.Y.
ADDRESS

THIS CERTIFICATE IS EVIDENCE OF AGE, PARENTAGE AND PLACE OF BIRTH AND SHOULD BE CAREFULLY PRESERVED
Ask the physician or clinic to fill in the spaces below when the child is immunized.

| | Date | Physician or clinic |
|---|---|---|
| Immunized against smallpox | | |
| Immunized against diphtheria | | |
| Immunized against tetanus | | |
| Immunized against poliomyelitis | | |
| Immunized against | | |

EXHIBIT NO. 21 (Page 1 of 1)

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# Certificate of Baptism

## Church of Sacred Heart

SOUTH PLAINFIELD, NEW JERSEY

This is to Certify

That Louise Claire Eisenhauer

Child of Francis Eisenhauer

and Louise A. Longobardi

born in Plainfield (CITY), New Jersey (STATE)

on the 26th day of February 1969

was **Baptized**

on the 16th day of March 1969

According to the Rite of the Roman Catholic Church

by the Rev. Joseph M. Bishop

the Sponsors being { Joseph E. Ernst / Claire Eisenhauer

as appears from the Baptismal Register of this Church.

Dated March 16, 1969

Rev. Joseph M. Bishop Associate Pastor

EXHIBIT NO. 22 (Page 1 of 1)

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# Certificate of Baptism

## Church of Sacred Heart

SOUTH PLAINFIELD, NEW JERSEY

This is to Certify

That Ursula Marlene Greta Eisenhauer

Child of Francis Eisenhauer

and Sonja Jongebloed

born in Plainfield, (CITY) New Jersey (STATE)

on the 12th day of April 19 70

was **Baptized**

on the 10th day of May 19 70

According to the Rite of the Roman Catholic Church

by the Rev. Patrick J. Castles

the Sponsors being { John Richardson
Monika Radauscher

as appears from the Baptismal Register of this Church.

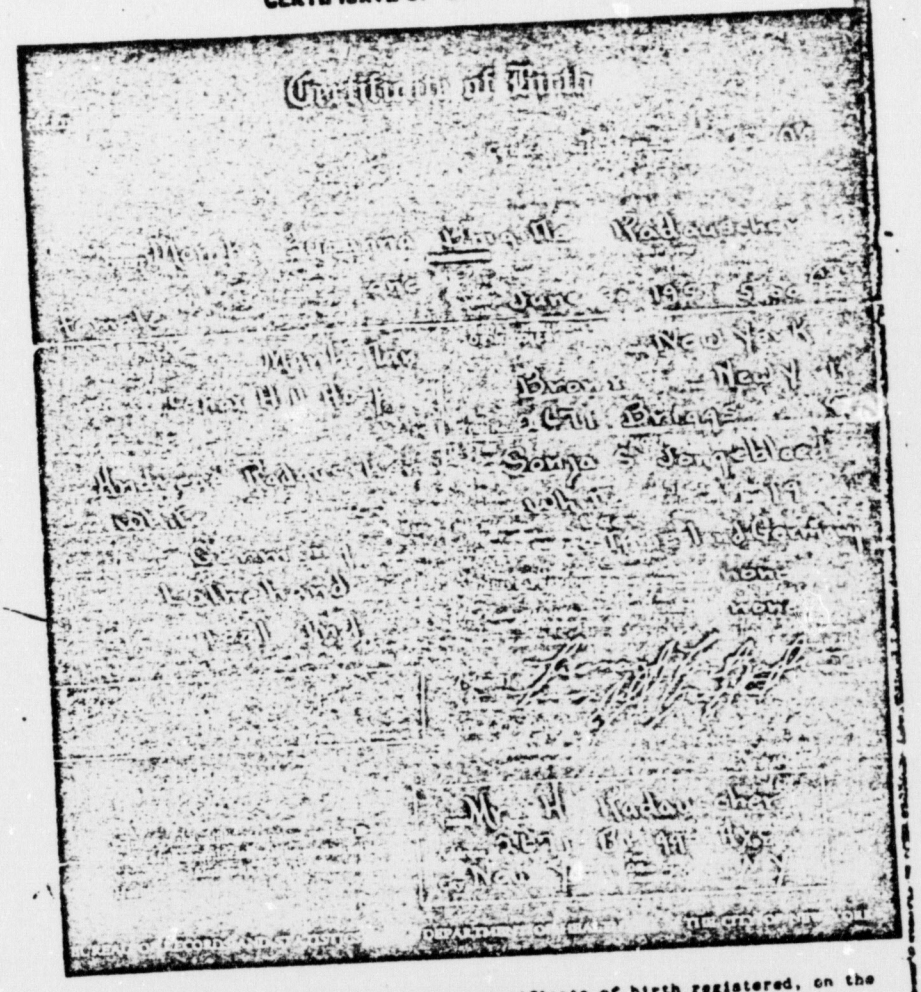
Dated June 10, 1970

Pastor

EXHIBIT NO. 23 (Page 1 of 1)

DEPARTMENT OF HEALTH CITY OF NEW YORK

## CERTIFICATE OF BIRTH REGISTRATION



Above is an exact copy of a certificate of birth registered, on the date indicated, in the Bureau of Records and Statistics of the Department of Health in the borough in which the birth occurred. It is sent, without charge, pursuant to the provisions of Section 567-3.0 of the Administrative Code of the City of New York.

If the certificate contains any errors, return this copy with the correct information to the Borough Registrar in the borough where the child was born. (See address below.) He will advise you how to proceed to have the record corrected. It is important to do this at once.

Robert F. Wagner | Leona Baumgartner M.D. | Carl L. Erhardt

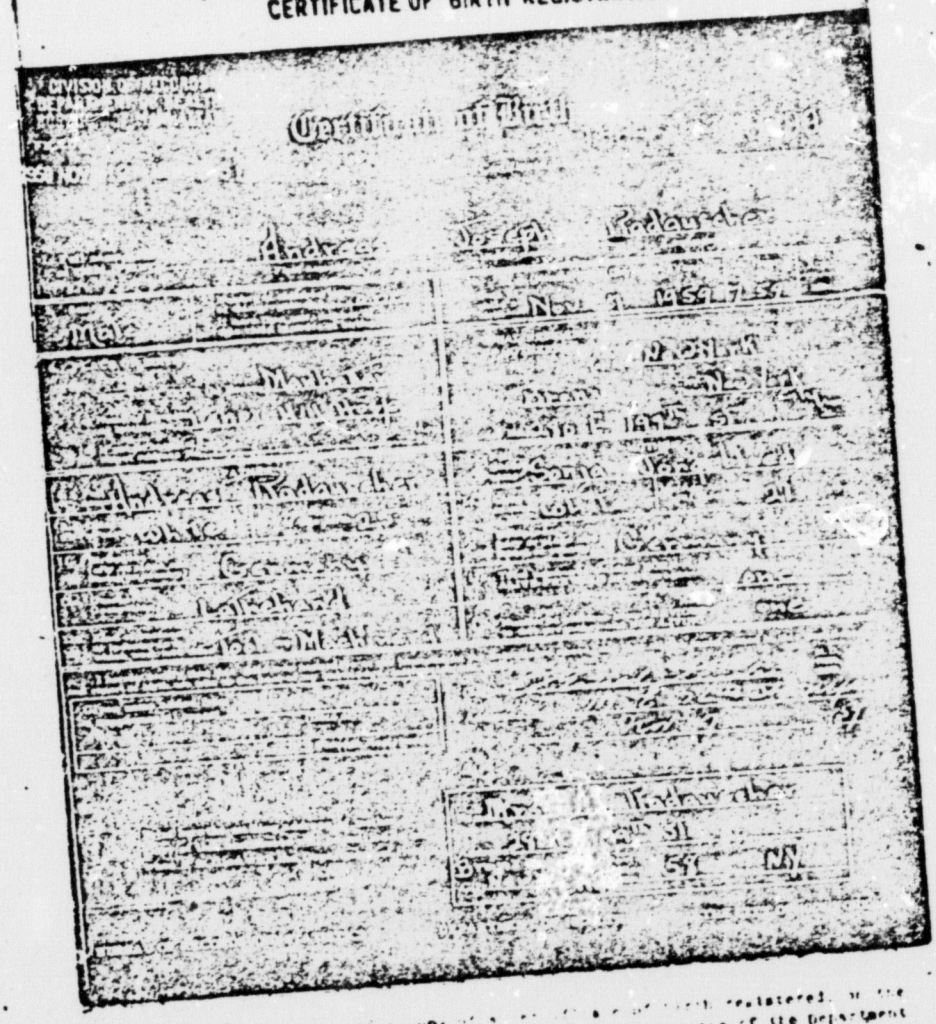
MAYOR | COMMISSIONER OF HEALTH | DIRECTOR OF BUREAU

MANHATTAN: 125 WORTH STREET BROOKLYN: 295 FLATBUSH AVENUE EXTENSION
THE BRONX: 1826 ARTHUR AVENUE QUEENS: 90-37 PARSONS BOULEVARD, JAMAICA
RICHMOND: 51 STUYVESANT PLACE, ST. GEORGE, S.I.

EXHIBIT NO. 24 (Page 1 of 1)

DEPARTMENT OF HEALTH CITY OF NEW YORK

CERTIFICATE OF BIRTH REGISTRATION



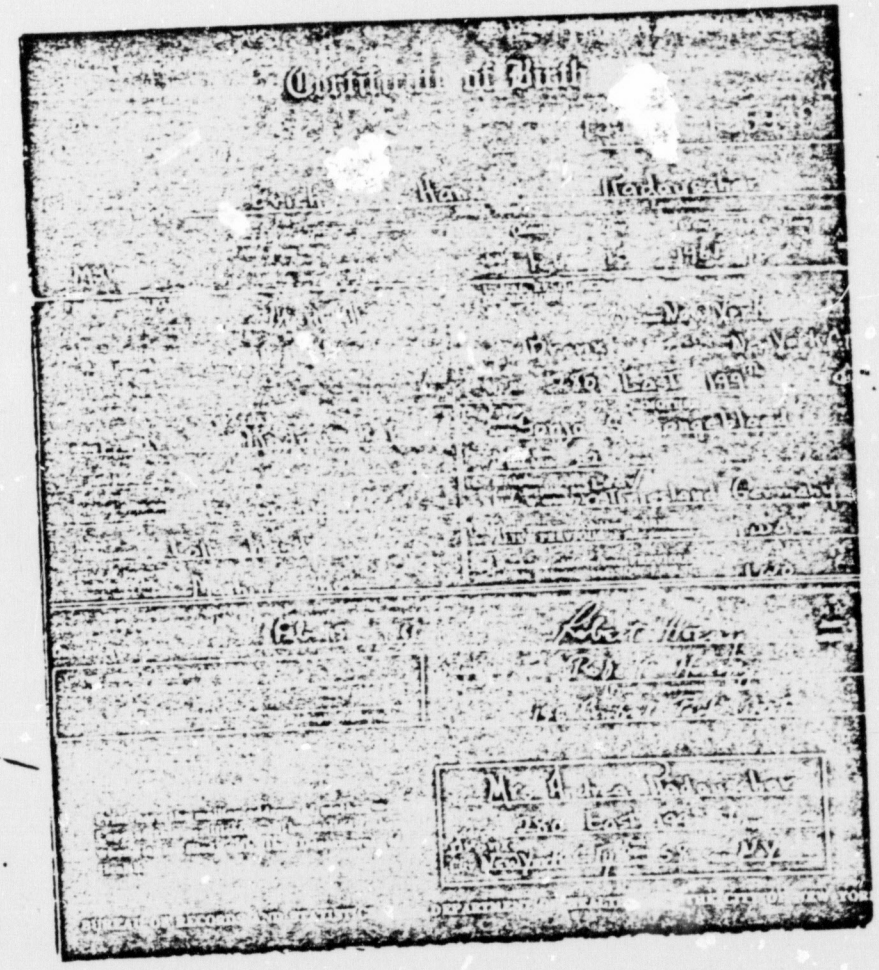
BEST COPY OBTAINABLE

EXHIBIT NO. 25 (Page 1 of 1)

DEPARTMENT OF HEALTH CITY OF NEW YORK

# CERTIFICATE OF BIRTH REGISTRATION

177



Above is an exact copy of a certificate of birth registered on the date indicated, in the Bureau of Records and Statistics of the Department of Health in the borough in which the birth occurred. It is sent, without charge, pursuant to the provisions of section 567.3.0 of the Administrative Code of the City of New York.

If the certificate contains any errors, return this copy with the correct information to the Borough Registrar in the borough where the child was born (See address below). He will advise you how to proceed to have the record corrected. It is important to do this at once.

| | | |
|---|---|---|
| [illegible] | [illegible] M.D. | Carl L. Erhardt |
| MAYOR | [illegible] | [illegible] |

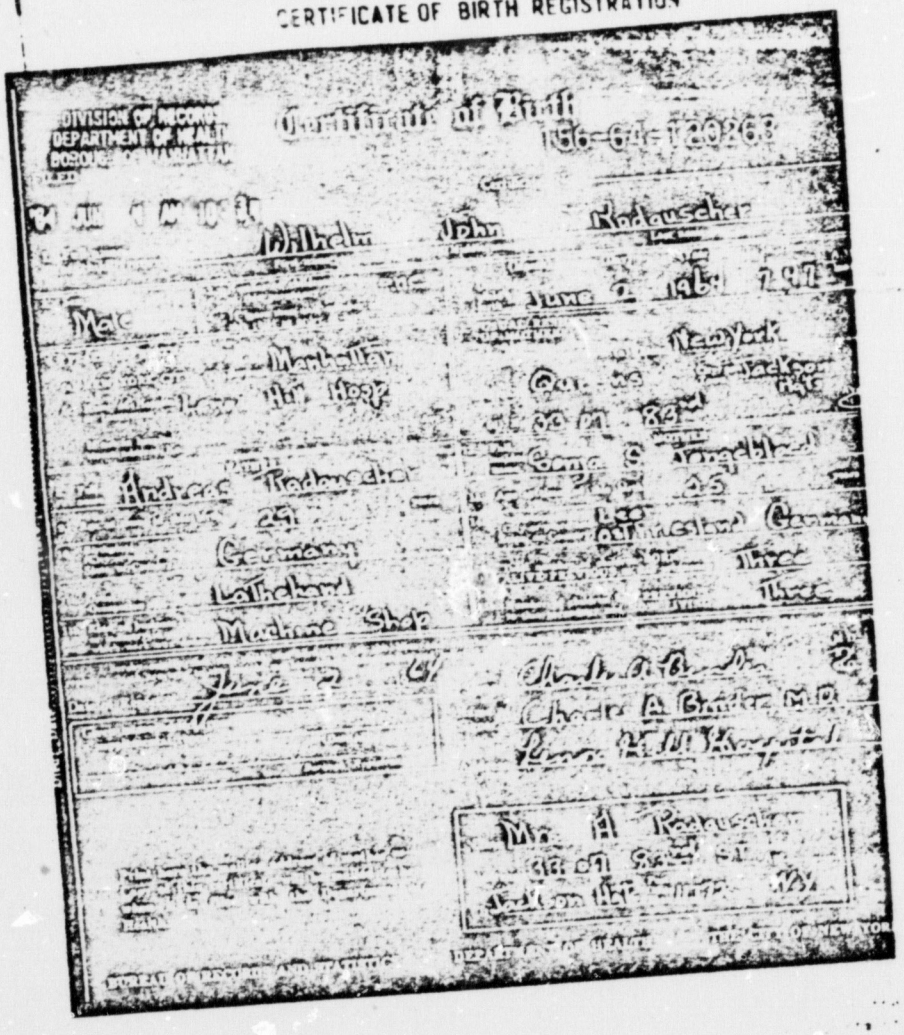
MANHATTAN: 125 WORTH STREET
THE BRONX: 1826 ARTHUR AVENUE
BROOKLYN: 295 FLATBUSH AVENUE EXTENSION
QUEENS: 90-37 PARSONS BOULEVARD, JAMAICA
RICHMOND: 51 STUYVESANT PLACE, ST. GEORGE, S.I.

BEST COPY OBTAINABLE

EXHIBIT NO. 26 (Page 1 of 1)

DEPARTMENT OF HEALTH CITY OF NEW YORK

CERTIFICATE OF BIRTH REGISTRATION



BEST COPY OBTAINABLE

EXHIBIT NO. 27 (Page 1 of 1)

# REPORT OF CONTACT

(USE INK OR TYPEWRITER)

ACCOUNT NUMBER (and symbol): 130-18-7297 179

TO: REVIEWING OFFICE: NY P BIR CH SF DBS KC DFC SA

NAME OF WAGE EARNER OR SELF-EMPLOYED PERSON: Francis Eisenhauer

PERSON(S) CONTACTED AND ADDRESS(ES): ☐ WE OR SE PERSON ☐ OTHER (Specify)

CONTACT MADE: ☐ DO ☐ BO ☐ CS ☐ HOME ☐ PHONE: ☐ OTHER (Specify)

DATE OF CONTACT

SUBJECT:

Issue: Illegitimacy of 3 children

Facts: ① Sonja Eisenhauer mother of the 3 children, Widow of Wage Earner Francis E - d/d/s - 7-2-66, Sonja - d/o/b - 2/24/69, & Ursula - b/d/b - 4/15/70. stated w/E living with & supporting & father of above.

② 1969 Tax returns list dependants as Francis E. & Sonja L.

③ B/C & baptismals indicate that W/E father of children.

④ W/E waiting for divorce to marry Sonja - 1st wife held divorce up.

Recm: All facts in file relate that the W/E was living with & supporting & fathered the children. Therefore children qualify as illegit. children of the deceased for benefits.

SIGNATURE: M [illegible]

DISTRICT OFFICE: West Babylon, NY

☐ CR ☐ FR ☐ SR ☐ CLAIMS CLERICAL ☐ OTHER (Specify)

DATE OF REPORT: 10/7/20

PAGE 1 OF

FORM SSA-5002 (2-68)

U. S. GOVERNMENT PRINTING OFFICE : 1968 O - 316-288

EXHIBIT NO. 28 (Page 1 of 2)

DO NOT WRITE IN MARGIN

180

Form **1040** Combined with Form 1040A — **US** Department of the Treasury / Internal Revenue Service — **Individual Income Tax Return** — **1969**

For the year January 1–December 31, 1969, or other taxable year beginning _____ 1969, ending _____ 19

Please print or type

F. E. EISENHAUER

**BEST COPY OBTAINABLE**

Your social security number

Your occupation

Spouse's social security number

Spouse's occupation

Enter below name and address used on your return for 1968 (if same as above write "Same"). If none filed, give reason. If changing from separate to joint or joint to separate returns, enter 1968 names and addresses.

Name and address of employer at time of filing

**Your Filing Status** (Check only one)

1 ☐ Single
2 ☐ Married filing joint return (even if only one had income)
3 ☐ Married filing separate return and spouse is also filing a return. If this item checked give spouse's social security number in space provided above and enter first name here ▶
4 ☒ Unmarried Head of Household
5 ☐ Surviving widow(er) with dependent child
6 ☐ Married filing separate return and spouse is not filing a return

**Your Exemptions**

Check boxes for exemptions which apply — Regular — 65 or over — Blind — Enter number of boxes checked ▶ 1

7a Yourself . . . ☒ ☐ ☐
7b Spouse (applies only if line 2 or line 6 is checked) . . . ☐ ☐ ☐

8 First names of your dependent children who lived with you — Enter number ▶ 2

FRANCIS E., SONIA L.

| 9 OTHER DEPENDENTS (a) NAME—Enter figure 1 in the last column to right for each name listed (if more space is needed, use other side) | (b) Relationship | (c) Months lived in your home. See Instructions, R-2. | (d) $600 or more income? | (e) Support you furnished. If 100% write "ALL" | (f) Support furnished by dependent and others |
|---|---|---|---|---|---|
| BRIAN F. EISENHAUER | SON | NONE | NO | $ ALL. | $ NONE ▶ 1 |
| FRANCIS X. EISENHAUER | SON | NONE | NO | ALL. | NONE ▶ 1 |
| | | | | | ▶ 2 |

10 Total exemptions from lines 7, 8, and 9 above . . . ▶ 4

**Your Income**

| | | | |
|---|---|---|---|
| 11 | Wages, salaries, tips, etc. (Attach Form W-2 to back. If unavailable, explain on back) | 11 | 18084 30 |
| 12a | Dividends [Total before exclusion] $ _____ [See item 2 on 1040-1] 12b Less Exclusion $ _____ Balance ▶ | 12c | |
| 13 | Interest (Enter total here and if over $100, also list in Schedule B, Part II) | 13 | |
| 14 | Other Income: Total from attached schedules (check schedules used—C ☐, D ☐, E ☐, F ☐) | 14 | 3964 10 |
| 15a | Total [Add lines 11, 12c, 13 & 14] $ 22048.40 15b Less Adjustments [See 1040-1] $ 930.20 | 15c Adjusted Gross Income ▶ | 21,118 20 |

**Your Tax and Surcharge**

If line 15c is $10,000 or more, use Schedule T to figure tax and surcharge (lines 16 and 17).
Go to Sch. T to figure tax and surcharge if you itemize deductions or claim the investment credit (lines 16 and 17).
If neither of above two items applies, use Tax Tables instead of Sch. T. (lines 16 & 17)

| | | | |
|---|---|---|---|
| 16 | Tax from Tax Table (see tables on T-2 and T-3) | 16 | 1915 00 |
| 17 | Tax surcharge on line 16 (see T-1 for tax surcharge tables) | 17 | 196 56 |
| 18 | Enter total of lines 16 and 17 (or amount from Schedule T, line 13, if you prefer) (check if from Tax Table ☐, Sch. B ☐, Sch. C ☐, Tax Rate Sch. ☐, Sch. D ☐, Sch. G ☐) | 18 | 2111 56 |

See 1040-1 for rules under which the IRS will figure your tax and surcharge

**Your Credits**

| | | | |
|---|---|---|---|
| 19 | Total Federal income tax withheld (attach Forms W-2 to back) | 19 | 3066 42 |
| 20 | Excess F.I.C.A. tax withheld (two or more employers—see R-2) | 20 | 185 40 |
| 21 | ☐ Nonhighway Federal gasoline tax, Form 4136; ☐ Reg. Inv., Form 2439 | 21 | |
| 22 | 1969 Estimated tax payments (include 1968 overpayment allowed as a credit) | 22 | 3251 82 |
| 23 | Total (add lines 19, 20, 21, and 22) | 23 | |

Make check or money order payable to Internal Revenue Service.

**Balance Due or Refund**

| | | | |
|---|---|---|---|
| 24 | If line 18 is larger than line 23, enter BALANCE DUE. Pay in full with return ▶ | 24 | |
| 25 | If line 23 is larger than line 18, enter OVERPAYMENT ▶ | 25 | 1090 26 |
| 26 | Line 25 to be: (a) Credited on 1970 estimated tax ▶ $ _____ ; (b) Refunded ▶ $ | | 1090 26 |

Please attach Copy B of Form W-2 to back

Please attach Check or Money Order here

**Sign here**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Your signature: Francis E. Eisenhauer — Date: May 22 1970

Spouse's signature (if filing jointly, BOTH must sign even if only one had income)

Signature of preparer other than taxpayer, based on all information of which he has any knowledge. — Date

EXHIBIT NO. 28 (Page 2 of 2)

I



February 24, 1972

Dear Mr. Richardson!

I dont quite know how or where to beginn to ask you to please try and help me, as you are my only last hope and help me straighten everything out before I write to the President of our country himself.
I am not the first and surely will not be the last to have gone through these things in our life.
I will tell you the whole story and then at the end you will be able to see and understand why I had to go into all the details even though it is immaterial to what I am asking your help for.
Please read my whole letter and then you will understand everything.
Right now I am a widow with 7 children. Four are from my first husband from whom I am divorced legally for many years. The other 3 children are what I am asking your help about but first I will have to explain the whole situation why I need your help. On April 1st 1966 Francis E. Eisenhauer and I started living together while he of course was legally still married but had left his wife before this already

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he was and had quite a while before that to get a divorce, which his wife did not want to give him. Being she found out that he was in love with another woman it made her mad and figured she was not going to let go and make our lives miserable which she did, and is still doing at this time to me.

Jealousy is a very ill feeling and plays a great part in many people unhappy lives. Anyway Francis got his legal Court separation, in July 1966 it became final. Anyway in that year of 1966 no one was able to get a legal divorce with out the others consent. But as time went on on Sept 1, 1968 the New York State divorce law was revised after over 100 years it finally meant that after a 2 year legal seperation people could finally get divorced wether one person or the other wanted to or not.

So we were glad and hoped soon we would legally be married.

But even though since it was a brand new law different judges in different parts of N.Y. felt the meaning were different. So in Brooklyn N.Y. and N.Y City and the Bronx etc. people did get their divorces granted while they were legally

EXHIBIT NO. 29 (Page 2 of 13)

seperated befor the Sept 1, 1968 or not, as long as there was a 2 year seperation. Every one did get their divorce granted except Francis. His seperated wife lived and still lives in New Hyde Park, L.I. Nassau County and the Judge felt the law meant that it should mean 2 years after Sept 1st 1965 and not before So any way I guess her lawyer had a hand in this being it was tried in he County where she lived and like most all Judges and Lawyers of the same towns know each other personally and probably play golf together or something to that effect which is what Francis thought or this is why we had to wait from Sept 1, 1965 till Sept 1st 1970. Frank was in the middle of going to trial and getting it. But 2 days before a hearing in court Francis died of a heart attack while being out of town on a business trip. Any way Frank wanted to even adopt the 3 children that he and I had from our union but his lawyer said it was not necessary being they are his Flesh & Blood children and once his divorce became final they would be legalized. So ok. after all know one ever thinks of dying before their time, but this is what happened. Its 3 children illegitimate.

EXHIBIT NO. 29 (Pages 3 of 13)

Frances and I lived together here for 5 years were happy etc He had at the Company it was the Company Insurance policy which he did not have to pay. The company had a life Insurance Policy on his life and they paid for this and he could name any one he wanted to as his beneficiary. So I am at solely it was $46000. Now of course his upset wife feels and is fighting me for this money think it is hers, which of course it is not. So any way Frances was and did live up to all his separation and legal agreements that he had to. Which included a life Insurance policy on "her life which he had to pay every month" and he did this.

Now she is saying that this is the policy he had to keep up paying for her as per agreement, which of course is not since at the time he was legally ordered to pay her and only her Life Insurance Policy on her life only, with a different company all together. This policy did not even exist at that time and also he did not have to pay this himself since this was different Policy with a different Company

EXHIBIT NO. 29 (Page 1 of 13)

at his new place of Employment. So how could he keep up a Policy payment which was not in existence at that time and he himself did not have to pay it So how can you keep up paying something that you never even paid for in the first place. Any way This is still a legal battle in the Brooklyn Courts the Federal court. My Lawyer did not do too much about this he was busy running for some kind of office so I finally got 2 new good New York Lawyers and started all over again. In this meantime I am slowly ~~going to~~ turning out to be a nervous wreck. Any way Its a big Policy of course I have to pay my Lawyer one third of this money plus having to pay funeral expenses even doctors etc for having my last baby 2 month before Frances his death and for my operation from which I cannot have any more children from the last baby. I am up to my neck in debts. Well to continue I am getting $201- from the Welfare per month which is nothing to live on and keep paying for mortgage $114 per month alone already and all kinds of bill and raising 7 children on. My Husband gives me 70 dollars per week which [illegible] God boys could for

EXHIBIT NO. 29 (page 5 of 13)

the kids. Any way the old woman can continue to waste her time and fight for what is mine, since she only has 2 big children from him and besides they had carried a policy on that house which when he died was payed for in full so she has no money problems. I am physically unable to go to work plus how can I with 7 children now

My children are 13, 12, 11, 7 and little Francis will be 6 years old on July 27 things and little Sonja will be 3 on Saturday Feb 26 and little Ursula will be 2 on April 12, You see our little baby were 15½ month old and the little baby was 2 month old on the day I was buried. little Francis was only going on 4. Today would have been my husband Francis his birthday he would have been 48 years old today I hope and still am going through a lot since he death. We were the happiest of people that lived, only the good die I guess well now comes the reason that I am asking your help of please please I hope you can read all of my writing I am writing this all with my baby on my lap she is feeling ill and

EXHIBIT NO. 29 (page 6 of 13)

cranky from teething
On Sept, 1970 the Funeral guide man took me to the Social Security office in New Brunswick with all the nessesary papers. My husbands death Certificate and his Social Security card and Army Id Card and my 3 children's birth and Baptism papers and a marriage licence from Frances and ~~mag~~ even though it is not a legal marriage cert. Any way this is now 20 month after his death and I did so much calling to the office about getting Social Security money for his, our 3 children. Myself I was not asking for since legally she was still his wife, but I am asking for it for our 3 little infant children. At that time in 1970 I was told very shortly I would get checks regularly for the kids by December 1970 still nothing happened so I called again. Then some woman on phone ~~And one day before Christmas Eve~~ me one day before Christmas Eve and told me I was getting a check quite a large one since retro active from the day of his death. Well it never came. So I kept calling it did no good, all I got was I will take care of it because its a little different then ordinary cases. Oh. Again weeks passed by, then months

So I phoned again some results " oh yes our Supervisor is taking care of it herself" he will explain when or what you will receive, then after weeks again I phoned since no word from any one. Then the man first I spoke too all of a sudden was no longer in that department so I got another run around. Then some girl told me which I had already done month before to fill out papers for a reconsideration and why I wanted it these were printed papers for a request for reconsideration which I filled out and never heard anything about either. After 20 month of getting ~~nowhere~~ where I finally got desperate and I wrote to my town paper the Courier help program, so a few weeks ago they contacted the Social Security office in New Brunswick and finally I got a phone call on Tuesday February 22 at 11.30 from the assistant manager a Mr. Paul Lewis. She apologized for the lack of help etc etc. and told me that I would not get any money for these 3 children of Frances Eisenhauer being because of one little word which everyone loves to use when they feel that there only way out illegitimate children do not and are not considered for benefits. Strangely

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after one of the legitimate children of hers drops of, by either entering the armed forces or going to work anything except being a full time student until the age of 22 then will I be getting this share which then will be divided between my 3 children "illegitimate children" Then also when the other boy drops of I will then get his share plus their mothers share being she then no longer will have children entitled to the benefits then all those benefits will be equally be divided between my 3 children. I don't see why my 3 little infants should have to wait for this benefit after all he was their father until his death. His own Flesh & Blood just like the other 2 from her. He never denied these children we lived together waiting for his final divorce to legalize everything until his death even. We have all the Certificates and proof of his being their father and wanting to be etc. Why should they wait till the others drop of until they can receive these benefits, their father paid for them Social Security, Taxes and was their sole and only support Between now and the time the other drop of these 3 children will not become any more illegitimate than they are now. Once

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my husband died and he cannot come back between now and then from the grave to legitimize the children. So since he was their flesh & blood father why not recognize them now instead later. The 3 children did not die when he died they did not stop breathing ~~when~~ when he did. They are here, they exist they are alive. They eat and sleep and breath just like anyone else. They are not ~~human~~ invisable & so I would not be asking for help from you for them. My children are Americans and if they can fight and die for our Country and are expected to believe in our good for the country our rights, then they should have all the rights to their fathers benefits too.

No one ask of you are you legitimate or not when you join our United States Service or die for it

Even one of our Presidents of our Country was illegitimate I heard.

Our Lawes told me that even if a child or children from an orphan home or different race or creed had been adopted legally by Francis Hammond receive benefits, but his own

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11



Flesh & Blood does not count We can get any job like I said even become President of the United States by being illegitimate as long as we are American citizens. I came from Germany in 1951 I lived through world war II and seen a lot and I became an American Citizen, maybe I am sorry I am and became one. (My 7 children are all born in this country. What is this country coming to. Freedom of Speech, Freedom of a lot of things but not being recognized as real flesh & blood people. Now here enclosed you will find the photostats of certificates of birth & baptism and our marriage, my husbands Social Security Number is 130-18-4297

FRANCIS EUGENE EISENHAUER.

I will leave the lives of our 3 children and their future in your hands and our countrys. You are my last hope before I ask it of the President of the United States.

Thank you sincerely

Sonja S. F. Eisenhauer

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(Page 11 of 13)

P.S. Enclosed are all the papers plus a couple of the last pictures of us with my husband 3 weeks before his death and of the funeral with all the children

12



P.S I am enclosing a clipping from the New York Daily News paper explaining too. I am

I need this money to support my children and to feed, clothes and educate them.

The money should and must be paid retroactive from the day of his death. After all I did everything to do and get things straightened out. It is not my fault since the people at the Social Security Office messed it all up and no one wants to take the blame and it will involve a lot of paper work and figuring it all out, and of course since Social Security has paid the other woman all the money in full they will have to make it up one way or another to bring it up to date for my children. It did not mess all the works up so if Social Security will have to pay it double from that day of his death to my children and be responsible for making these big money mistakes they should not work for the Social Security and waste the governments money and time.

Thank you

Sonja B. A. Christensen

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My address & phone number

MRS. FRANCIS E. Eisenhauer
100 Puha Road
South Plainfield
New Jersey 07080

Telephone
Area code 201 - 754 - 8747

**SOCIAL SECURITY**

By HARVEY GARDNER, C.P.A.

QUESTION: Why does my neighbor who never worked or contributed to social security receive $75 a month from old-age assistance while my social security benefit is only $55? D.F.

ANSWER: The old-age assistance payment is a Department of Social Service payment based on need, and the amount paid varies with the requirements of the individual. Need does not enter into the calculation of your insurance benefit.

QUESTION: Our marriage is not valid. Can our children get social security benefits? B.N.

ANSWER: The children or stepchildren of couples who have gone through a marriage ceremony will be able to get benefits even though the marriage is not valid.

N.Y. DAILY NEWS
FRIDAY - 2/25/72

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DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

CLAIM NUMBER
130-18-7297 C3
Francis E Eisenhauer

# Certificate of Social Insurance Award

194

DATE 5/19/72

THIS IS TO CERTIFY THAT THE PERSON(S) NAMED BELOW BECAME ENTITLED TO THE INSURANCE BENEFITS SHOWN PAYABLE UNDER TITLE II OF THE SOCIAL SECURITY ACT

| NAME AND ADDRESS OF PAYEE AS THE CLAIMANT OR AS REPRESENTATIVE OF THE CLAIMANT | DATE OF ENTITLEMENT | MONTHLY BENEFIT | AMOUNT OF FIRST CHECK |
|---|---|---|---|
| | 6/70 | $180.90 | |
| | 1/71 | 199.20 | |
| Sonja S Eisenhauer for | 4/72 | 119.70 | $4374.00 |
| children of F E Eisenhauer | | | |
| 100 Puha Rd | TYPE OF BENEFIT | Child | |
| South Plainfield NJ 07080 | | | |

After reviewing our files we have determined that you were only due a check for $3831.30. You will be notified at a later date about your overpayment of $542.70.

No benefits are due for June 1970 through August 1970 since the maximum payable on this account has been paid. The amount that was due, $3831.30, represents benefits due Francis, Sonja and Ursula for September 1970 through April 1972. They will receive regular checks of $119.70 effective May 1972.

Their monthly rate decreases effective April 1972 because of the entitlement of Monika, Andreas, Erich and Wilhelm beginning April 1972.

The right to receive social security benefits carries with it certain responsibilities. They are explained in the enclosed booklet. Read this booklet carefully. Be sure that you understand clearly what you can expect by way of benefits, and what is to be expected of you. If you have any questions or wish additional information about your benefits, please get in touch with your social security district office.

EXHIBIT NO. 30 (Page 1 of 1)

NOTICE: If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make any such request through your social security office. If additional evidence is available, you should submit it with your request.

Robert M Ball

ROBERT M BALL
COMMISSIONER OF SOCIAL SECURITY

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
SOCIAL SECURITY ADMINISTRATION

CLAIM NUMBER
130-18-7297 C1
F E Eisenhauer

# Certificate of Social Insurance Award

195

DATE 5/19/72

THIS IS TO CERTIFY THAT THE PERSON(S) NAMED BELOW BECAME ENTITLED TO THE INSURANCE BENEFITS SHOWN PAYABLE UNDER TITLE II OF THE SOCIAL SECURITY ACT

| NAME AND ADDRESS OF PAYEE AS THE CLAIMANT OR AS REPRESENTATIVE OF THE CLAIMANT | DATE OF ENTITLEMENT | MONTHLY BENEFIT | AMOUNT OF FIRST CHECK |
|---|---|---|---|
| Sonja S Eisenhauer<br>for children of F E Eisenhauer<br>100 Puha Rd<br>South Plainfield NJ 07080 | 4/71 | $159.60 | $159.60 |
| | TYPE OF BENEFIT | Child | |

No benefits can be paid to Monika, Andreas, Erich and Wilhelm for April 1971 through March 1972. They can only receive benefits effective April 1972, the month their application was filed.

The right to receive social security benefits carries with it certain responsibilities. They are explained in the enclosed booklet. Read this booklet carefully. Be sure that you understand clearly what you can expect by way of benefits, and what is to be expected of you. If you have any questions or wish additional information about your benefits, please get in touch with your social security district office.

EXHIBIT NO. 731 (Page 1 of 2)

NOTICE: If you believe that this determination is not correct, you may request that your case be reexamined. If you want this reconsideration, you must request it not later than 6 months from the date of this notice. You may make any such request through your social security office. If additional evidence is available, you should submit it with your request.

Robert M. Ball

ROBERT M. BALL
COMMISSIONER OF SOCIAL SECURITY

KEEP AS A PERMANENT RECORD - DO NOT DESTROY

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

190

May 23, 1972

130-18-7297
RSI:RR:NY:OCR:C

Mrs. Sonja Eisenhauer
100 Puha Road
South Plainfield, New Jersey 07080

Dear Mrs. Eisenhauer:

This is in further reference to your letter to Secretary Richardson.

We are pleased to advise you that the claims which you have filed for your children have been approved.

We have authorized the Treasury Department to issue you a check for the children for $4373. You should receive this check shortly if it has not already been received.

Unfortunately, this check is for an incorrect amount and should have been for $3831.30. Therefore, you have been overpaid $542.70. This is because the maximum amount payable on this record had already been paid for the months before your claims were filed. You should refund the amount of the overpayment.

Beginning with the payment for May, which will be issued on June 3, monthly payments of $39.90 will be issued for each child.

We are enclosing the photographs which you requested that we return to you.

We regret the inconvenience caused in this matter.

Sincerely yours,

Pasquale F. Caligiuri
Regional Representative

cc: D. P. I.
D/O, Plainfield, NJ

BARRY:ms

FILE COPY

EXHIBIT NO. 326 (Page 47)

| OFFICE | SURNAME | DATE | OFFICE | SURNAME | DATE |
|---|---|---|---|---|---|
| C | Barry | 5/22 | | | |

GPO 1971—442-094

EL C. RODOLFO SILVA, SECRETARIO DEL JUZGADO PRIMERO DE LO CIVIL DEL DISTRITO BRAVOS, ESTADO DE CHIHUAHUA, REPUBLICA DE MEXICO, C E R T I F I C A :- Que en el juicio de divorcio necesario promovido por la señora SONJA RADAUSCHER en contra de su esposo el señor ANDREAS RADAUSCHER, se dictó una resolución del tenor literal siguiente:- - - - - - - - - - - - - - - - - - - - - - -

R E S O L U C I O N :- "Ciudad Juárez, Chihuahua. a 7 siete de marzo de 1966 mil novecientos sesenta y seis.- VISTO para resolver en definitiva el juicio de divorcio necesario promovido por la señora SONJA RADAUSCHER en contra de su esposo el señor ANDREAS RADAUSCHER (Expediente número 2280/966); y,- R E S U L T A N D O :- Por escrito fechado en esta Ciudad el día 5 cinco de los corrientes, la señora Sonja Radauscher sometiéndose expresamente a la jurisdicción y competencia de este Juzgado, promovió juicio de divorcio necesario en contra de su esposo el señor Andreas Radauscher, alegando como causa la incompatibilidad de caracteres,exponiendo además: Que el matrimonio fué contraído el día 29 veintinueve de junio de 1957 mil novecientos cincuenta y siete, en Brooklyn, Ciudad y Estado de New York, Estados Unidos de América, como lo acreditó con la prueba testimonial que se ofreció; que del matrimonio existen cuatro hijos: Monika, Andreas Jr. Erich y Wilhelm, de 7, 6, 5 y 4 años de edad respectivamente, cuya situación quedó resuelta según convenio; y que los cónyuges ejecutaron un convenio de separación el día 20 de febrero del corriente año en el Estado de New York, Estados Unidos de América, el que entre otras cosas establece que los hijos quedaron bajo la custodia de la madre, teniendo el padre derecho de visitación de acuerdo con el párrafo "4" del convenio y que el esposo pagará a la esposa para el sostenimiento, manutención y educación de los hijos, $17.50 dolares cada semana por cada uno de ellos, en los términos del párrafo "5" del convenio, el cual pidió se incorpore por referencia a esta sentencia, sobreviviendo a la misma y siendo obligatorio y definitivo para con las partes para siempre. Se dió entrada a la demanda mandándose correr el traslado respectivo al demandado y como la actora señora Sonja Radauscher compareció personalmente ante el suscrito Juez acompañada de su abogado el Licenciado Xavier Rosas Cevallos a presentar su demanda, fué notificada del acuerdo que dió entrada a la misma y dijo: Que ratifica la demanda en todas sus partes, incluso en lo que se refiere a la sumisión expresa que hace a la jurisdicción de este Juzgado y exhibió el Certificado Número 2603 de su inscripción en el Registro Municipal de Residentes de esta Ciudad; y por escrito presentado hoy, el Licenciado Miguel Gómez Guerra como apoderado especial jurídico del demandado señor Andreas Radauscher sometiéndolo expresamente a esta jurisdicción, contestó la demanda confesándola en todas sus partes, pidiendo la resolución que hoy se dicta en atención a que se han satisfecho todos los requisitos legales, inclusive el del pago de la publicación de la misma, según certificado número 59372 expedido por la Recaudación de Rentas; y,- C O N S I D E R A N D O :- Es competente este Juzgado para resolver en el presente caso de acuerdo con los artículos 22 y 24 de la Ley del Divorcio porque la actora presentó certificado de su inscripción en el Registro Municipal de Residentes de esta Ciudad y porque ambas partes se sometieron expresamente a esta jurisdicción en los términos del artículo 23 de la citada Ley; y de conformidad con el artículo 29 de la propia Ley; y de conformidad con el arrtículo 29 de la propia Ley, se acreditó la existencia del matrimonio y de los hijos.- Como causa de divorcio señaló la actora la incompatibilidad de caracteres, causal prevista en la fracción XIX del artículo 3o. de la Ley del Divorcio y al confesarse la demanda en todas sus partes, quedó plenamente probada de conformidad con el artículo 373 del Código de Procedimientos Civiles.- Habiéndose manifestado que del matrimonio existen cuatro hijos menores de edad cuya situación quedó resuelta según convenio, atento al parecer del Agente del Ministerio Público y de conformidad con el artículo 11 de la Ley del Divorcio, dichos menores quedaron en la situación convenida.- Por lo expuesto y con apoyo - -

EXHIBIT NO. 33 (page 1 of 7)

...ículos 1, 2, 17, 37, 41, 44 y 45 de la Ley del Divorcio, se falla:- PRIMERO.- Se declara disuelto con todas sus consecuencias legales, el matrimonio contraído por la señora SONJA RADAUSCHER con el señor ANDREAS RADAUSCHER, el día 29 veintinueve de junio de 1957 mil novecientos cincuenta y siete, en Brooklyn, Ciudad y Estado de New York, Estados Unidos de América, quedando ambas partes en aptitud legal de contraer nuevas nupcias.- SEGUNDO.- El convenio de separación ejecutado entre los cónyuges el día 20 de febrero de 1958 en el Estado de New York, Estados Unidos de Norteamérica, queda incorporado por referencia a esta sentencia, sobreviviendo a la misma y siendo obligatorio y definitivo para con las partes para siempre.- TERCERO.- Los hijos habidos del matrimonio: Monika Radauscher, Andreas Radauscher, Jr., Erich Radauscher y Whilhelm Radauscher quedarán bajo la custodia de la madre teniendo el padre derechos de visitación de acuerdo con el párrafo "4" del Convenio.- CUARTO.- El esposo pagará a la esposa para el sostenimiento, manutención y educación de los hijos, $17.50 dolares por semana para cada uno de ellos, de acuerdo con el párrafo "5" del convenio.- QUINTO.- Regístrese la presente resolución, publíquese, dénse a los interesados las copias certificadas que soliciten y en su oportunidad, archívense los autos.- Así, definitivamente juzgando, lo sentenció y firma el C. Licenciado Lorenzo Holguín Cisneros, Juez Primero de lo Civil del Distrito Bravos.- Doy fé.- L. Holguín C.- R. Silva.- Rúbricas".- - - - - - - - - - - -

A C U E R D O :- "Ciudad Juárez, Chihuahua, a 7 siete de marzo de 1966 mil novecientos sesenta y seis.- A sus autos los escritos de esta fecha y vista la expresa conformidad de las partes interesadas en este juicio con la sentencia dictada por la cual se declaró disuelto el vínculo conyugal que unía a la señora Sonja Radauscher con el señor Andreas Radauscher, se declara que dicha resolución ha causado ejecutoria conforme a la Ley.- Así lo acordó y firma el C. Juez Primero de lo Civil del Distrito Bravos.- Doy fé.- L. Holguín C.- R. Silva.- Rúbricas".- - - - -

EN CUMPLIMIENTO A LO ORDENADO EN EL QUINTO PUNTO RESOLUTIVO, SE EXPIDE ESTA COPIA A SOLICITUD DE PARTE INTERESADA EN UNA FOJA UTIL Y DEBIDAMENTE COTEJADA, SE AUTORIZA Y FIRMA EN CIUDAD JUAREZ CHIHUAHUA, MEXICO, A LOS VEINTISEIS DIAS DEL MES DE ENERO DE MIL NOVECIENTOS SETENTA Y DOS.- DOY FE.- - - - - - - - - - - - - - - - - -

EL SECRETARIO.

JUZGADO PRIMERO CIVIL

RODOLFO SILVA.

esg

EXHIBIT NO. 33 (Page 2 of 7)

STATE OF CHIHUAHUA )
CONSULATE OF THE UNITED ) ss:
STATES OF AMERICA )
AT CIUDAD JUAREZ )

199

I, Gerald G. McLaughlin, Vice Consul of the United States of America at Ciudad Juarez, Chihuahua, Mexico, duly commissioned and qualified, do hereby certify that

. . . . . Rodolfo Silva . . . . . .

whose true signature(s) and official seal(s) are respectively subscribed and affixed to the annexed document was (were respectively), on the 26 day of January 1972, the date thereof, Secretary of the First Civil Court, ( Secretario del Juzgado Primero de lo Civil ) , Bravos District, Ciudad Juarez, Chihuahua, Mexico,
duly commissioned and qualified , to whose official acts , faith and credit are due.

For the contents of the annexed document, the Consulate assumes no responsibility, nor for the validity of this document, or for its acceptability in any state in the United States.

IN WITNESS THEREOF I have hereunto set my hand and affixed the seal of this Consulate at Ciudad Juarez, Chihuahua, Mexico, this 26 day of January 1972.

Gerald G. McLaughlin
Vice Consul of the United States
of America.

Item No. 48
Fee $2.50.

[illegible] of the agreement and that the husband will pay to the wife 17.50 dollars per week for each of the children for the support and education of them according to Section "B" of the agreement, praying that it be approved, confirmed and [illegible] by reference in this decree, as if fully set [illegible] surviving [illegible] in all its legal [illegible] and [illegible], ordered [illegible]

EXHIBIT NO. 33 (Page 3 of 7)

THE HON. RODOLFO SILVA, CLERK OF THE FIRST CIVIL COURT OF THE DISTRICT OF BRAVOS, STATE OF CHIHUAHUA, REPUBLIC OF MEXICO, 200

C E R T I F I E S :- That in the suit for necessary divorce filed by Mrs. SONJA RADAUSCHER against Mr. ANDREAS RADAUSCHER, a judgment was pronounced worded as follows:- - - - - - - - - - - - -

J U D G M E N T :- Ciudad Juarez, Chihuahua, March 7, 1966.- In suit for necessary divorce filed by Mrs. SONJA RADAUSCHER against her husband Mr. ANDREAS RADAUSCHER (File 2280/966); and,- W H E R E A S :- By writ dated in this City on March 5 of the current year, Mrs. Sonja Radauscher expressly submitting to the jurisdiction and competence of this Court filed suit for necessary divorce against her husband Mr. Andreas Radauscher, alleging as grounds: The incompatibility of characters, declaring: That the marriage was contracted on June 29, 1957 in Brooklyn, City and State of New York, United States of North America, as appears from the testimonial evidence offered; that as issue of the marriage there are four minors named: Monika, Andreas Jr. Erich and Wilhelm, who are actually 7, 6, 5 and 1 years of age, respectivelly; who shall continue living in the terms of the Separation Agreement; that there is no common property to be divided within this jurisdiction but in regard to property located abroad, the plaintiff and the defendant entered into a Separation Agreement on February 20 of the current year in the State of New York, United States of North America, and welling others things there is established that the children should continue living under the custody of the mother and the father well have the right of visit them according to Section "4" of the agreement and that the husband will pay to the wife $17.50 dollars per week for each of the children for the support and education of them according to Section "5" of the agreement, praying that it be approved, confirmed and incorporated by reference in this decree, as if fully set forth herein, surviving the same in all its legal force and effects, without merging herein, ordering the parties to comply

LIC. ARTURO GOMEZ TREVIÑO - CIUDAD JUAREZ, CHIH., MEXICO.

EXHIBIT NO. 33 (Page 4 of 7)

with its terms at all times and places.- THE SUIT WAS ENTERED and the order given to summon the defendant as requested and the plaintiff Mrs. Sonja Radauscher having personally appeared before this Court with his special attorney Xavier Rosas Cevallos, to file her petition was notified of the above order and she then declared: That she ratifies her petition in all its parts, including her express submission to the jurisdiction and competence of this Court and exhibited the Certificate number 2603 of her inscription in the Municipal Registry of Residents of this City; and by writ dated today, Attorney Miguel Gomez Guerra as special attorney for the defendant Mr. Andreas Radauscher expressly submitting to the jurisdiction and competence of this Court answered the petition filed against her, confessing same in all its parts, and prayed for judgment which is issued today in view of the fact that all legal requirements have been complied with including the payment for the publication of the same as per tax payment certificate number 59372 issued by the tax collector of this City; and,- W H E R E A S :- This Court is competent to rule in the present case in accordance with articles 22 and 24 of the Divorce Law as the plaintiff exhibited the certificate of her inscription in the Municipal Registry of Residents of this City; in accordance with article 23 of the same law, as both parties expressly submitted to the jurisdiction and competence of this Court; and in accordance with article 29 of the same law, testimonial evidence was rendered to accredit themarriage of the parties and the existence of the minors.-- As grounds for divorce the plaintiff alleged the incompatibility of characters existing between both parties, grounds provided for in Section XIX of article 3 of the said Divorce Law and the defendant having admitted to the petition in all its parts said grounds were fully proved in accordance with article 370 of the Code of Civil Procedure. The petition having set forth that as issue of the marriage there

LIC. ARTURO GOMEZ TREVIÑO - CIUDAD JUAREZ. CHIH., MEXICO.

are four minors in accordance with article 11 of the Divorce Law, they shall continue living in the same situation as at present. THEREFORE and based on articles 1, 2, 13, 37, 43, 44 and 45 of the Divorce law invoked, IT IS DECREED:- FIRST.- The marriage contracted by SONJA RADAUSCHER and ANDREAS RADAUSHCER, on June 29, 1957 in Brooklyn, City and State of New York, United States of North America, is declared dissolved with all its legal consequences, leaving both parties legally free to contract new marriage.- SECOND.- The Separation Agreement executed by the parties on February 20, 1966 in the State of New York, United States of North America, it is approved, confirmed and incorporated by reference in this decree, as if fully set forth herein, ordering the parties to comply with its terms at all times and places.- THIRD.- The minors of the marriage named: Monika Raduascher, Andreas Radauscher, Jr. Erich Radauscher and Whilhelm Radauscher, shall continue living under the custody of the mother, and the father well have the right of visitation according to Section 4 of the agreement.- FOURTH.- The husband will pay to the wife $17.50 dollars per week for each one of the children for the support and education of them, according to Section "5" of the agreement.- FIFTH.- This judgment is to be registered, published and the certified copies requested by the parties concerned, must be issued to them and in due time, judicial record be filed.- Thus this final judgment of the Hon. Attorney Lorenzo Holguin Cisneros, Judge of the First Civil Court of the District of Bravos.- Attest: L. Holguin C.- R. Silva.- Signed".- - - - - - - - - - - - - - - - - -

O R D E R :- "Ciudad Juarez, Chihuahua, March 7, 1966.- In view of the express conformity of the parties with the judgment issued herein, which declared the dissolution of the matrimonial bonds uniting Mrs. Sonja Radauscher and Mr. Andreas Radauscher, it is declared that said judgment has become final according to law.- Thus ordered and signed by the Hon. First Civil Judge of the District of Bravos.- Attest: L. Holguin C.- R. Silva.- Signed".- - - - - - -

LIC. ARTURO GOMEZ TREVIÑO - CIUDAD JUAREZ, CHIH., MEXICO.

EXHIBIT NO. 33 (Page 6 of 7)

IN COMPLIANCE WITH ORDER CONTAINED IN THE FIFTH RESOLUTIVE POINT THIS TRUE AND CORRECT COPY TAKEN FROM ITS ORIGINAL IS ISSUED IN THIS LEGAL FOLIO AND DULY COMPARED IS AUTHORIZED AND SIGNED AT CIUDAD JUAREZ, CHIHUAHUA, MEXICO, ON THIS TWENTY SIXTH DAY OF JANUARY, NINETEEN HUNDRED AND SEVENTY TWO.- I SO CERTIFY.- - - - - - - - -

RODOLFO SILVA.

CLERK OF THE FIRST CIVIL COURT.

(Seal of the Court)

asx

LIC. ARTURO GOMEZ TREVIÑO - CIUDAD JUAREZ, CHIH., MEXICO.

EXHIBIT NO. 33 (Page 7 of 7)

34

# This Indenture, 204

Made the 2nd day of May , in the year of our Lord One Thousand Nine Hundred and Sixty-seven.

Between LOUISE EISENHAUER, Widow

residing at 65-24 Metropolitan Avenue
in the Village of Middle Village County of Queens
and State of New York party of the first part;

And SONJA RADAUSCHER EISENHAUER

residing at 100 Puha Road,
in the Borough of South Plainfield County of Middlesex
and State of New Jersey party of the second part;

Witnesseth, That the said party of the first part, for and in consideration of ONE ($1.00) DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATION + + + + + + + lawful money of the United States of America, to her in hand well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said party of the first part being therewith fully satisfied, contented and paid, ha given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed and by these presents do give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said party of the second part, and to her heirs and assigns, forever,

All that certain lot, tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the Borough of South Plainfield County of Middlesex and State of NeW Jersey.

BEGINNING at a point in the easterly side line of Puha Road therein distant northerly 12.12 feet from its intersection with the northerly side line of Oak Tree Avenue if said side lines were extended to form an intersection and from said beginning point running thence (1) along the said easterly side line of Puha Road, northerly on a curve to the left having a radius of 239.81 feet for a distance of 56.68 feet; thence (2) still along the said easterly side line of Puha Road, North 18 degrees 25 minutes 56 seconds West, 20.00 feet; thence (3) North 71 degrees 34 minutes 04 seconds East, 100.00 feet; thence (4) South 18 degrees 25 minutes 56 seconds East, 140.59 feet to the aforesaid northerly side line of Oak Tree Avenue; thence (5) along the said northerly side line of Oak Tree Avenue North 82 degrees 44 minutes 53 seconds West, 109.39 feet; thence (6) still along said northerly side line of Oak Tree Avenue and merging into the aforesaid easterly side line of Puha Road, northwesterly on a curve to the right having a radius of 15.00 feet for a distance of 20.38 feet to the point or place of BEGINNING

Being lot 13 in Block 311 as shown and laid out on a certain map entitled "Final Map of Addition to Finchley Hill, Borough of South Plainfield, Middlesex County, N. J, made by Aurnhammer, Associates, a division of Aurnhammer, Jeske and Aurnhammer, Inc., Consulting Engineers, Summit, N. J., June 7, 1965" which said map was filed in the office of the Clerk of Middlesex County on July 23, 1965 as map number 2080 in file number 952.

BEST COPY OBTAINABLE



EXHIBIT NO. 34 (Page 1 of 5)

Said premises being also known as #100 Puha Road, South Plainfield, Middlesex County, New Jersey.

The within description is in accordance with survey made by Aurnhammer Associates, a division of Aurnhammer, Joske and Aurnhammer, Inc., Consulting Engineers, Summit, N. J., June 7, 1965" which said map was filed in the office of the Clerk of Middlesex County on July 23, 1965 as map number 2880 in file number 952.'

Being the same premises conveyed to the grantor herein under deed from Finchley Hill, Ltd., a New Jersey corporation, dated December 19, 1966 and recorded in the office of the Clerk of Middlesex County on December 20, 1966 in Book 2566 of Deeds for said County, on page 936, &c.

This conveyance is made subject to any covenants, easements or restrictions of record, if any and subject to any mortgages of record.

BEST COPY OBTAINABLE

EXHIBIT NO. 34 (Page 2 of 5)

Together with all and singular the houses, buildings, trees, ways, waters, profits, privileges, and advantages, with the appurtenances to the same belonging or in anywise appertaining:

Also, all the estate, right, title, interest, property, claim and demand whatsoever, of the said party of the first part, of, in and to the same, and of, in and to every part and parcel thereof,

To have and to Hold all and singular the above described land and premises, with the appurtenances, unto the said party of the second part, her heirs and assigns, to the only proper use, benefit and behoof of the said party of the second part, her heirs and assigns forever:

her heirs ~~xxxxx~~

And the said LOUISE EISENHAUER, Widow

for herself, her heirs, executors and administrators, do covenant, promise and agree to and with the said party of the second part, her heirs and assigns that she has not made, done, committed, executed or suffered any act or acts, thing or things whatsoever, whereby or by means whereof the above mentioned and described premises, or any part or parcel thereof, now are, or at any time hereafter shall or may be impeached, charged or encumbered, in any manner or way whatsoever.

In Witness Whereof, the party of the first part has set hand and seal or caused these presents to be signed by its proper corporate officers and caused its proper corporate seal to be hereunto affixed, the day and year first above written.

Signed, Sealed and Delivered in the Presence of

Louise Eisenhauer L.S.
LOUISE EISENHAUER

JOHN GEORGE

Consideration being nominal and less than $100.00 no revenue stamps are required.



EXHIBIT NO. 34 (Page 3 of 5)

# STATE OF NEW JERSEY

## COUNTY OF MIDDLESEX

I, FRANK SCHATZMAN, Clerk of the County of Middlesex and also Clerk of the Court, in and for said County and State, do hereby certify that the foregoing is a true, full and complete copy of DEED # 3980

LOUISE EISENMAN, ETC.

TO

SONJA RAINBOHER DIELTHELM

as the same is now of record in the Clerk's Office of Middlesex County in Book File 2579 of DEEDS Page No. 311

WITNESS MY HAND and official Seal of said Court at New Brunswick, this 14th day of November, 19 70

Middlesex County Clerk,
Frank Schatzman

M. P. 6604

EXHIBIT NO. 34 (Page 4 of 5)

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MIDDLESEX COUNTY
CLERK'S OFFICE

Certified Copy of

LOUISE [illegible], JUNE

TO

JONA RADAUSCHER [illegible] INC

New Brunswick, N. J.

BEST COPY OBTAINABLE



APPLICATION No. 10421 D

LICENSE NO. 42909

# APPLICATION FOR MARRIAGE LICENSE

To the Clerk of the Circuit Court for Cecil County, Maryland

I hereby make application for a License for the Solemnization of Marriage according to the Act of Assembly in such case made and provided, and for that purpose do solemnly declare and affirm that the following statements made by me are true to the best of my knowledge and belief:

Groom's Name: James Earl Ford Age 21 Color W Birthplace Elkton Md.

Groom's Residence: 66 St. Mary's Ave. Elkton Md. (City) (County)

Previous Marital Status: Never Married ☒ Widower ☐ Divorced ☐

Bride's Name: Sara Catherine Hall Age 19 Color W Birthplace Elkton Md.

Bride's Residence: 10 Cedar Trail Bath Elkton Md. (City) (County)

Relationship of Groom & Bride: None

Previous Marital Status: Never Married ☒ Widow ☐ Divorced ☐ Date of Decree: March 1, 1966

Name of Person consenting if Groom is a Minor: [illegible]

Name of Person consenting if Bride is a Minor: [illegible]

Sworn to and subscribed before me this 9th day of August A.D. 1966

Clerk of the Circuit Court

Application Filed: August 9, 1966

CLERK'S CERTIFICATE OF MARRIAGE RETURN

On the 10th day of August A.D. 1966 I issued a License to the above named Groom and Bride.

ELKTON, MD.

ELKTON, MD.

Clerk of the Circuit Court

EXHIBIT NO. 35

# CLERK'S CERTIFICATE

State of Maryland,

Cecil County, to-wit:

I, W. ANDREW SETH, Clerk of the Circuit Court for Cecil County, do Hereby Certify the aforegoing to be a TRUE PHOTOCOPY OF THE MARRIAGE OF

Francis E. Eisenhauer and Sonja S. Radauscher

Covered by License No. 43902, August 14, 1969, taken from the Marriage Records now on file and of record in the Office of the Clerk of the Circuit Court for Cecil County.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the Seal of the Circuit Court for Cecil County, this 20th day of October in the year Nineteen Hundred and seventy.....

W. Andrew Seth

Clerk of the Circuit Court for Cecil County.

EXHIBIT NO. 35 (Page 2 of 2)

LAW OFFICES
BERG AND DUFFY
150 GREAT NECK ROAD
GREAT NECK, NEW YORK 11021

ALFRED S. BERG
JAMES P. DUFFY, III

TELEPHONE:
(516) 466-4040

211

July 11, 1973

Hon. Maurice C. Rosenzweig
Administrative Law Judge
Bureau of Hearings and Appeals
Social Security Administration
Room 200
Tinker National Bank Building
180 East Main Street
Smithtown, New York 11787

Maria Eisenhauer - Children's Social Security Benefits Wage Earner's Social Security No. 130-18-7297

Dear Judge Rosenzweig:

Pursuant to the permission granted in your letter dated June 22, 1973, we enclose Maria Eisenhauer's memorandum of law concerning her claim for children's insurance benefits, together with an appendix containing three additional exhibits. I certify to you that the copies contained in the exhibits are true and complete copies of the documents they purport to represent.

The wage earner's Federal Income Tax Return for 1969 may already be an exhibit, and if so, I apologize for the additional burdens resubmitting it might cause. The same may also be true for the wage earner's Certificate of Death, as amended; however, you should be aware that the State of Rhode Island amended the wage earner's death certificate on June 14, 1971, to make it comply with the provisions of the declaratory judgment of the Supreme Court of the State of New York, County of Nassau. As you can see from the third exhibit, it did not exist at the time of the hearing; Sonja Eisenhauer gave this affidavit as an inducement to withdrawing certain proceedings pending against her in the New York State Surrogate's Court for the County of Queens.

Very truly yours,

James P. Duffy, III

JPD:dh
Enclosures

EXHIBIT NO. 36 (Page 1 of 13

E70-393 Declatory Judgment - Supreme Court of the State of New York, County of Nassau, Mineola, New York, Granted 5-25-70 70-04076 212

Amended 6-14-71

FRANCIS E. EISENHAUER | Male | June 9, 1970

(Page 77) | White | 76 | Feb. 24, 1924 | Kent

Warwick | Howard Johnson's Motor Lodge

New York | U.S.A. | Married | Maria

130-18-7292 | Salesman | Colton Industries, N.J.

Middle Village | ~~South Plainfield~~ | 10 Puha Rd., ~~South Plainfield, N.J.~~ 07080

~~6524 Metropolitan Ave., Public Village, County of Queens, State of~~ New York

Frank J. Eisenhauer | Louise Pysandt

Mrs. Sonja Eisenhauer | 10 Puha Rd., So. Plainfield, N.J. 07080

(Page 79) ORDINARY ARTERIOSCLEROSIS

No

L-3A. 6-9-70 C-3A. 6/9/70

Edward F. Perkins MD | Off Appendix

325 West Shore Rd. Warwick R.I. 02886

Burial | Holy Redeemer Cemetery | So. Plainfield N.J.

June 12, 1970 | Jubilee-Pearson Co., 75th Broad St., Providence, R.I.

JUN 22 1970 | Shirley C. Larson | James Halliwell | June 9, 1970

STATE COPY

I hereby certify that this is a true copy of the record as recorded in the office of the State Registrar of Vital Statistics.

This copy issued JUL 13 1971

Lyra Ohrens
State Registrar

BEST COPY OBTAINABLE

EXHIBIT NO. 36 (Page 2 of 13)

Exhibit I

SURROGATE'S COURT : COUNTY OF QUEENS

----------X

Proceedings by Maria Eisenhauer
Administratrix of the Estate of

FRANCIS E. EISENHAUER, Deceased,

to discover property withheld or to
obtain information thereof.

FILE NO.
5125/1971

----------X

STATE OF NEW YORK )
COUNTY OF NEW YORK) SS.:

SONJA S. EISENHAUER, being duly sworn, deposes and says as follows:

1. That she resides at 100 Puha Road, South Plainfield, N. J. 07080.

2. That she is the full fee simple absolute owner of the property and premises known as and by Street No. 100 Puha Road, South Plainfield, N. J., and that the decedent, FRANCIS E. EISENHAUER, never had any interest whatever in said real property and premises.

3. That the decedent, FRANCIS E. EISENHAUER, had no interest in any furniture, fixtures, furnishings or the contents of said house and premises, and that to the best of your deponent's knowledge the decedent, FRANCIS E. EISENHAUER, had no assets known to her.

4. That your deponent is not in possession of any assets of the decedent, FRANCIS E. EISENHAUER, nor does she have control over any assets of the decedent, FRANCIS E.

Copy Returned
Mallilieu & Associates
By Marianne Mallilieu
atty.
6/8/73



Exhibit II

EXHIBIT NO. 36 (Page 3 of 13)

EISENHAUER, nor does she have any knowledge or information concerning any assets of the decedent, FRANCIS E. EISENHAUER, of any nature, kind, form or substance; more specifically, but not by way of limitation, the kind, nature and substance of the assets referred to in the petition heretofore mentioned in paragraph (4) and sub-paragraphs therein, (5) and (6).

Sonja S. Eisenhauer
SONJA S. EISENHAUER

Sworn to before me this
8th day of June, 1973

NICHOLAS MALTESE
Notary Public, State of New York
No. 60-7667650 Qual. in Bronx County
Commission Expires March 30, 1974

EXHIBIT NO. 36 (Page 4 of 13)

Schedule of Cl... 4

Form 1040 — Department of the Treasury — Internal Revenue Service — U.S. Individual Income Tax Return — 1969

For the year January 1–December 31, 1969, or other taxable year beginning ... 1969, ending ...

Please print or type

Please attach check or money order here

Please check if you want $1 to go to Presidential Election Campaign Fund

Your social security number

Present home address (Number and street, rural route, or P.O. box)

City, town or post office, State and ZIP code

Your occupation

Spouse's social security number

Spouse's occupation

Name and address of employer at time of filing

**Your Filing Status** (Check only one)

1 ☐ Single
2 ☐ Married filing joint return (even if only one had income)
3 ☐ Married filing separate return and spouse is also filing a return. If this item checked, give spouse's social security number in space provided above and enter first name here ▷
4 ☐ Unmarried Head of Household
5 ☐ Surviving widow(er) with dependent child
6 ☐ Married filing separate return and spouse is not filing a return

**Your Exemptions**

Check boxes for exemptions which apply

7a Yourself . . . . . Regular ☐ Over 65 ☐ Blind ☐ Both ☐ — Enter number claimed 1

7b Spouse (applies only if line 2 or line 6 is checked) . . . . . ☐ ☐ ☐ ☐ — Enter number claimed

8 Dependents (Number of your dependent children who lived with you)

| (a) Name of dependent | (b) Relationship | (c) Months lived in your home | (d) Did dependent have income of $600 or more? | (e) Number of other dependents | (f) Number claimed by you |
|---|---|---|---|---|---|
| CINDY F. EISENHAUER | SON | 12 | NO | | 1 |
| FRANCIS X. EISENHAUER | SON | 12 | NO | | 1 |

Enter number ▷ 2

9 Total exemptions from lines 7, 8, and 10 above . . . . . ▷ 5

**Your Income**

| | | | |
|---|---|---|---|
| 11 | Wages, salaries, tips, etc. (Attach Form W-2 to back. If unavailable, explain on back) | 11 | 12024 30 |
| 12a | Dividends [Total dollars] $ ____ [See line 2 of Sch. B] Less Exclusion $ ____ Balance ▷ | 12a | |
| 12b | [See line 3 of Sch. B] | 12b | |
| 13 | Interest (Enter total here and if over $100, also list in Schedule B, Part II) | 13 | |
| 14 | Other income. Total from attached schedules (check which: Sch. C ☐, D ☐, E ☐, F ☐) | 14 | 3764 10 |
| 15a | Total [illegible] $22048 [illegible] | 15a | 930.00 |
| 15b | [illegible] | 15b | 31,118 20 |

**Your Tax and Surcharges**

○ If line 15b is $5,000 or more, go to Schedule T, to figure tax and surcharge. (Omit lines 16 and 17.)
○ Go to Sch. T to figure tax and surcharge if you itemize deductions; or claim retirement income credit, foreign tax credit, or investment credit; or if you owe self-employment tax or tax from recomputing prior year investment credit. (Omit lines 16 and 17.)
○ If neither of above two items applies, go to Tax Tables instead of Sch. T. Complete lines 16, 17, & 19.

| | | | | | |
|---|---|---|---|---|---|
| 16 | Tax from Tax Table (see Tables on T-2 and T-3) | 16 | 1965 | 00 | |
| 17 | Tax surcharge on line 16 (see T-1 for tax surcharge tables) | 17 | 196 | 56 | |
| 18 | Enter total of lines 16 and 17 OR amount from Schedule T, line 18, if applicable (check if from Tax Table A ☐, B ☐, C ☐; Tax Rate Sch. D ☐, or Sch. G ☐) | 18 | | | 2161 56 |

**Your Credits**

| | | | | | |
|---|---|---|---|---|---|
| 19 | Total Federal income tax withheld (attach Forms W-2 to back) | 19 | 3250 | 00 | |
| 20 | Excess F.I.C.A. tax withheld (two or more employers—see R-5) | 20 | 185 | 00 | |
| 21 | ☐ Investment Federal gasoline tax, Form 4136; ☐ R.I.C. Inst., Form 2439 | 21 | | | Amount enter 21 |
| 22 | 1969 declaration tax payments (Include 1969 overpayment allowed on 1970 estimate) | 22 | 1501 | 00 | Date & to Number |
| 23 | Total (add lines 19, 20, 21, and 22) | | | | 23 |

**Balance Due or Refund**

| | | | |
|---|---|---|---|
| 24 | If line 18 is larger than line 23, enter BALANCE DUE (Check ☐ if payment attached) ▷ | 24 | |
| 25 | If line 23 is larger than line 18, enter OVERPAYMENT ▷ | 25 | 3150 00 |
| 26 | Line 25 to be (a) Credited on 1970 estimated tax ▷ $ [illegible] (b) Refunded ▷ $ 1050 | 26 | |

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Sign here ▷ Your signature — Date May 22, 1970

▷ Spouse's signature (If filing jointly, BOTH must sign even if only one had income)

Signature of preparer other than taxpayer. Declaration is based on all information of which he has any knowledge. Date

Address

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Exhibit III

EXHIBIT NO. 36 (Page 5 of 13)

Summary of Miscellaneous Income for 1939



Occupation as Free lance Musician

| Source | Income | Federal Tax | F.I.C.A. Excess | N.Y. State Tax | N.Y.City Tax |
|---|---|---|---|---|---|
| Mcalpin Hotel | $2594.00 | $233.86 | $124.56 | $36.76 | $4.12 |
| Michel Papes | 251.00 | 24.00 | 12.10 | 3.40 | 0.35 |
| Peter Duchin | 99.40 | ---- | 4.77 | ---- | ---- |
| Leo Stone | 45.00 | ----- | 2.16 | .80 | .20 |
| Recording Fund | 33.70 | 6.74 | 1.62 | 1.69 | .20 |
| H. Strickrodt | 76.00 | 8.70 | 3.49 | 1.00 | .20 |
| A. Barth | 60.00 | ---- | ---- | ---- | ---- |
| Longchamps | 795.00 | 37.18 | 36.72 | 1338 | ---- |
| Totals | $3954.10 | $310.48 | $185.40 | $45.13 | $5.07 |

PHOTOCOPY

EXHIBIT NO. 34 (Page 6 of 13)

SCHEDULE T (Form 1040)
Department of the Treasury Internal Revenue Service

# Tax Computation

1969

▶ If no entry is made on line 14, line 16, or line 17, keep this for your records
▶ If entry is made on line 14, line 16, or line 17, attach to form 1040

217

Name as shown on Form 1040: FRANCIS F. FISCHBACH

Social Security Number: 110 18 7397

| | | | |
|---|---|---|---|
| 1 | Your adjusted gross income (from line 15c, Form 1040). Note.—If your adjusted gross income is less than $5,000 and you choose to take the standard deduction instead of itemizing your deductions, omit lines 2, 3, 4, and 5. Find your tax in the appropriate table (A or B on T–2 or C on T–3). Enter tax on line 6 below. | 21 112 | 22 |
| 2 | Enter on the line at the right the amount of your deduction figured under one of the following methods:<br>a If you itemize deductions, enter the total from Schedule A, line 17<br>OR<br>b Figure your standard deduction as follows:<br>(1) Enter 10 percent of line 1 but do not enter more than $1,000 ($500 if married and filing separately) . . $<br>(2) Enter the sum of: $200 ($100 if married and filing separately) plus $100 for each exemption claimed in line 10 of Form 1040, but do not enter more than $1,000 ($500 if married and filing separately) . . $<br>Enter the larger of b(1) or b(2) on the line at the right. If your spouse files a separate return, determine your deduction in the same manner that she (he) has. | 8257 | 93 |
| 3 | Subtract the amount on line 2 from the amount on line 1 and enter the balance here | 12860 | 27 |
| 4 | Enter number of exemptions claimed on line 10, Form 1040 ..... Multiply this number by $600, and enter the amount here | 3000 | 00 |
| 5 | Subtract the amount on line 4 from the amount on line 3 and enter the balance here. This is your taxable income. Figure tax on this amount by using the appropriate Tax Rate Schedule (I, II, or III) on T–1. Enter tax on line 6 below | 9860 | 27 |
| 6 | Tax | 1965 | 06 |
| 7 | If you claim the retirement income credit, enter amount from Schedule R, line 12, here | - | |
| 8 | Subtract line 7 from line 6 | 1965 | 06 |
| 9 | Tax surcharge. If line 8 is less than $735, find surcharge from tax surcharge tables on T–1. If line 8 is $735 or more, multiply amount on line 8 by .10 and enter result here | 196 | 50 |
| 10 | Total (Add lines 6 and 9) | 2161 | 56 |
| 11 | Retirement income credit from Schedule R, line 17 (attach Schedule R) | | |
| 12 | Investment credit (attach Form 3468) | | |
| 13 | Foreign tax credit (attach Form 1116) | | |
| 14 | Total credits (add lines 11, 12, and 13) | | |
| 15 | Income tax (subtract line 14 from line 10) | 2161 | 56 |
| 16 | Self-employment tax (attach Schedule SE) | | |
| 17 | Tax from recomputing prior-year investment credit (attach Form 4255) | | |
| 18 | Total tax (add lines 15, 16, and 17). Enter here and on line 18, Form 1040 (make no entry on line 16 or 17, Form 1040). Attach Sch. T to Form 1040 only if you made an entry on line 14, 16, or 17 above | 2161 | 56 |

**Income Averaging.**—If your income has increased substantially this year, it may be to your advantage to figure your tax before surcharge under the "averaging method." Obtain Schedule G from an Internal Revenue Service office for full details.

**Alternative Tax.**—It will usually be to your advantage to use the alternative tax if your net long-term capital gain exceeds your net short-term capital loss, or if you have a net long-term capital gain only, and you are filing (a) a separate return with taxable income exceeding $26,000, or (b) a joint return, or as a surviving husband or wife, with taxable income exceeding $52,000, or (c) as a head of household with taxable income exceeding $38,000.

**Line 9—Tax Surcharge.**—The rate for the calendar year 1969 is 10 percent. The tax surcharge is an addition to the regular income tax. See the Tax Surcharge Tables on T–1.

**Credit for Foreign Taxes and Tax-Free Covenant Bonds.**—You may claim these credits only if you itemize deductions. To claim tax-free covenant bonds credit, enter the amount of credit above line 14, and write "covenant bonds" to left of the entry.

**Line 15—Self-Employment Tax.**—Enter amount shown on line 9, Part III, Schedule SE.

**Line 17—Tax From Recomputing Prior Year Investment Credit.**—Enter the amount by which the credit taken in a prior year or years exceeds the credit as recomputed due to early disposition of property. Attach Form 4255.

EXHIBIT NO. 36 (Page 7 of 13)

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**SCHEDULE E (Form 1040)**
Department of the Treasury
Internal Revenue Service

# Supplemental and Miscellaneous Income

▷ See instructions on E-1.
▷ If you use this schedule, attach it to Form 1040.

1989

Name as shown on Form 1040 | Social Security Number

Fill out and attach a separate Part I for each pension or annuity. Enter combined total of taxable portions on line 5.

**PART I.—Pension and Annuity Income.** • If pension or annuity is fully taxable for 1989, complete only lines 1 and 5. • If not fully taxable, complete all lines including line 2 if applicable.

1 Name of payer

2 If employee contribution is recoverable within a 3-year period and you have not recovered your cost tax-free in prior years, show: Your contribution $_____, Recovered in prior years $_____

3 Amount received this year

4 Amount excludable

5 Taxable portion (subtract line 4 from line 3)

**PART II.—Rent and Royalty Income**

| 1. Kind and location of property | 2. Total amount of rents | 3. Total amount of royalties | 4. Depreciation (explain below) or depletion (attach computation) | 5. Other expenses (Repairs, etc.—explain below) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| 6 Totals • | | | | |

7 Net income (or loss) from rents and royalties (column 2 plus column 3 less columns 4 and 5)

**PART III.—Income or Losses from Partnerships, Estates or Trusts, Small Business Corporations, and Miscellaneous Income**

| Name and address (for Miscellaneous Income, show kind and source of income in this column) | (b) Check applicable box: Partnership | Estate or Trust | Small Bus. Corp. | Misc. Income | (c) Employer identification number | (d) Income or loss |
|---|---|---|---|---|---|---|
| HOTEL MCALPIN | | | | X | 132613050 | 2594.00 |
| LOANSHARKS | | | | X | 131577751 | 795.00 |
| MICHELADES | | | | X | 221816223 | 29.29 |
| Peter Duchin | | | | X | 132595051 | 99.00 |
| MISC. EARNINGS | | | | X | Misplaced | 246.72 |

8 Income (or loss) Total of column (d) 3964.10

**TOTAL OF PARTS I, II AND III (Enter here and include in total on line 14, Form 1040)** 3964.10

Explanation of Column 5, Part II

| Item | Amount | Item | Amount | Item | Amount |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |

**Schedule for Depreciation Claimed in Part II Above**

Taxpayers using Revenue Procedures 62-21 and 65-13: Make no entry in column 2, enter the cost or other basis of assets held at end of year in column 3, and enter the accumulated depreciation at end of year in column 4. If you need more space, use Form 4562.

| 1. Group and guideline class or description of property | 2. Date acquired | 3. Cost or other basis | 4. Depreciation allowed or allowable in prior years | 5. Method of computing depreciation | 6. Life or rate | 7. Depreciation for this year |
|---|---|---|---|---|---|---|
| 1 Total additional first-year depreciation (do not include in items below) ▷ | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| 2 Totals | | | | | | |

**SUMMARY OF DEPRECIATION**

| | Straight line | Declining balance | Sum of the years digits | Units of production | Amount of first-year depreciation | Other (specify) | Total |
|---|---|---|---|---|---|---|---|
| 1 Under Rev. Procs. 62-21 and 65-13 | | | | | | | |
| 2 Other | | | | | | | |

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EXHIBIT NO. 36 (Page 8 of 13)

SCHEDULE A (Form 1040)
Department of the Treasury
Internal Revenue Service

# Itemized Deductions

▶ See instructions on A–1 and A–2.
▶ Attach to Form 1040.

05 219

1969

Name as shown on Form 1040

| Medical and dental expenses (not compensated by insurance or otherwise) for medicine and drugs, doctors, dentists, nurses, hospital care, insurance premiums for medical care, etc. | | |
|---|---|---|
| 1 One-half of insurance premiums for medical care (but not more than $150) | 75 | 00 |
| 2 Medicine and drugs | 221 | 10 |
| 3 Enter 1% of line 15e, Form 1040 | 211 | |
| 4 Subtract line 3 from line 2. Enter difference (if less than zero, enter zero) | 10 | 11 |
| 5 Itemize other medical and dental expenses (include balance of insurance premiums for medical care not deducted on line 1) | | |
| DR. DIAMOND | 143 | 00 |
| DR. CASE | 140 | 00 |
| DR. CALDWELL | 35 | 00 |
| DR. SPIEGEL | 10 | 00 |
| DR. RAILROAD | 23 | 00 |
| DR. BERGEN | 20 | 00 |
| EYE GLASSES | 86 | 00 |
| DR. CALABRIA | 24 | 00 |
| DR. DUDA | 10 | 00 |
| ANDLER'S HOSPITAL | 66 | 12 |
| PRESCRIPTIONS | 95 | 10 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| 6 Total (add lines 4 and 5) | 1114 | 23 |
| 7 Enter 3% of line 10c, Form 1040 | 653 | 82 |
| 8 Subtract line 7 from line 6. Enter difference (if less than zero, enter zero) | 78 | 41 |
| 9 Total deductible medical and dental expenses (add lines 1 and 8) ▶ | 153 | 64 |
| Taxes.—Real estate | 846 | 00 |
| State and local gasoline | 41 | 00 |
| General sales (see sales tax tables) | 97 | 00 |
| State and local income | 51 | 00 |
| Personal property | | |
| 10 Total taxes ▶ | 1035 | 59 |

| Contributions—Cash—(Include checks, money orders, etc. Itemize) | | |
|---|---|---|
| SOCIETY [illegible] CHURCH | 250 | 00 |
| SALVATION ARMY | 25 | 00 |
| FIRE DEPARTMENT | 15 | 00 |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| 11 Total cash contributions | 290 | 00 |
| 12 Other than cash (see instructions on A–1 for required statement). Enter total for such items here | | |
| 13 Carryover from prior years (see instructions on A–2) | | |
| 14 Total contributions (add lines 11, 12, and 13—see instructions on A–2 for limitation) ▶ | 290 | 00 |
| Interest expense—Home mortgage | 1050 | 03 |
| Installment purchases | | |
| Other (Itemize) | | |
| QUEEN CITY FINANCE CO | 143 | 43 |
| PLAINFIELD TRUST CO | 15 | 72 |
| BANKAMERICARD | 37 | 55 |
| NATIONAL BANK OF N.J. | 235 | 00 |
| | | |
| | | |
| | | |
| | | |
| 16 Total interest expense ▶ | 1477 | 73 |
| Miscellaneous deductions for child care, alimony, union dues, casualty losses, etc. (see instructions on A–2) | | |
| [illegible] MARY EXCHANGER | 532 | 50 |
| UNION DUES & ASSESSMENTS | 123 | 50 |
| | | |
| | | |
| | | |
| | | |
| | | |
| 17 Total miscellaneous deductions ▶ | 656 | 00 |
| 17 TOTAL ITEMIZED DEDUCTIONS (add lines 9, 10, 14, 15, and 16—enter here and on Schedule TC) ▶ | 3357 | 73 |

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EXHIBIT NO. 36 (Page 9 of 13)

WAGE AND TAX STATEMENT — Copy B—To be filed with employee's FEDERAL tax return

| Federal income tax withheld | Wages, tax, etc. paid in 1969 | Other compensation paid in 1969 | F.I.C.A. employee tax withheld | Total F.I.C.A. wages paid in 1969 |
|---|---|---|---|---|
| — | 45.00 | — | 3.16 | 45.00 |

Type or print EMPLOYEE'S social security number, name and address below

FRANCIS E. EISENHAUER 130-18-7297
100 PUHA ROAD
PLAINFIELD, N.J. 07060

| Single | Married | No. of Dependents |
|---|---|---|
| | M | 6 |

LEO STONE 13-1920-469
162 E BROADWAY
NEW YORK, N.Y. 10019

Type or Print EMPLOYER'S identification number, name and address

1 Includes tips reported by employee. Amount is before payroll deductions or sick pay exclusion.
2 Add this item to wages in figuring the amount to be reported as wages on your income tax return.
3 One-fifth of this amount was withheld to finance the cost of Hospital insurance benefits. The remainder is for old age, survivors, and disability insurance.
4 Includes tips reported by employee.
Uncollected Employee Tax on Tips $

Form W-2 U.S. Treasury Department Apr. 1965 1-68

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WAGE AND TAX STATEMENT — COPY B - To be filed with employee's tax return 1969

| INCOME TAX INFORMATION | | | SOCIAL SECURITY INFORMATION | | STATE OR MUNICIPAL INFORMATION | |
|---|---|---|---|---|---|---|
| Federal Tax Withheld | Wages, tips, etc. paid in 1969 | Other compensation 2 paid in 1969 | F.I.C.A. Employee Tax Withheld | Total F.I.C.A. wages paid in 1969 | NEW YORK STATE TAX Withheld | New York City Tax Withheld |
| 6.74 | 33.70 | | 1.62 | 33.70 | 1.69 | .34 |

EMPLOYEE'S social security no., name and address below

130-18-7297
FRANCIS E EISENHAUER
[illegible] BIRCHWOOD DR
[illegible] HYDE PK N Y

EMPLOYER NO. | ** | Name of State or City

Uncollected Employee Tax on Tips $

Type or Print EMPLOYER'S identification number, name and address

*Exclusive sick pay **Gross wages for State if different from Federal.
1 Includes tips reported by employee. Amount is before payroll deductions or sick pay exclusion.
2 Add this item to wages in figuring the amount to be reported as wages on your income tax return.
3 One-fifth of this amount was withheld to finance the cost of Hospital insurance benefits. The remainder is for old age, survivors, and disability insurance.
4 Includes tips reported by employee.

Form W-2 U.S. Treasury Department Internal Revenue Service APP 1-69

PHOTOGRAPH RECORD MANUFACTURERS' PENSION PAYMENTS FUND 13-6180704
c/o United States Trust Company of New York
45 Wall Street, New York, N. Y. 10005

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EXHIBIT NO. 36 (Page 11 of 13)

11-1975193

HENRY STRICKRODT
242 FERNWOOD TERRACE
STEWART MANOR L.I., N.Y.

Type or print EMPLOYER'S name, address, ZIP code, and address above.

WAGE AND TAX STATEMENT—1969
(For use in States or Cities authorizing combined form)

221

Copy C—To be filed with employee's FEDERAL tax return

Employer's State Identification number

| FEDERAL INCOME TAX INFORMATION | | | SOCIAL SECURITY INFORMATION | | STATUS |
|---|---|---|---|---|---|
| Federal income tax withheld | Wages paid subject to withholding in 1969 * | Other compensation paid in 1969 * | F.I.C.A. employee tax withheld * | Total F.I.C.A. wages paid in 1969 * | 1. Single 2. Married |
| 0.70 | 76.00 | | 3.49 | | |

EMPLOYEE'S social security number ▷ 130-18-7297

Frank Eisenhauer
100 Puha Road
S. Plainfield, N.J. 07080

Type or print EMPLOYEE'S name and address (including ZIP code) above.

| Name of State | State Form No. | State income tax withheld |
|---|---|---|
| | | |
| **Name of City** | **City Form No.** | **City income tax withheld** |
| | | |

*Excludable sick pay. **Gross wages for State if different from Federal.
† Includes tips reported by employee. Amount is before payroll deductions or sick pay exclusion.
‡ Add this item to wages in figuring the amount to be reported as wages and salaries on your income tax return.
* One-eighth of this amount was withheld to finance the cost of Hospital Insurance Benefits. The remainder is for old-age, survivors, and disability insurance.
* Includes tips reported by employee

Uncollected Employee Tax on Tips . . . $

Form W-2 U.S. Treasury Department, Internal Revenue Service

MICHEL PETER CORESSA
CHORUS DANCE
[illegible] 56th St.
FLUSHING, N.Y. 11360

Type or print EMPLOYER'S Federal identification number, name, and address above.

WAGE AND TAX STATEMENT—1969
(For use in States or Cities authorizing combined form)

Copy B—To be filed with employee's FEDERAL tax return

Employer's State Identification Number

| FEDERAL INCOME TAX INFORMATION | | | SOCIAL SECURITY INFORMATION | | STATUS |
|---|---|---|---|---|---|
| Federal income tax withheld | Wages paid subject to withholding in 1969 * | Other compensation paid in 1969 * | F.I.C.A. employee tax withheld * | Total F.I.C.A. wages paid in 1969 * | 1. Single 2. Married |
| 03.00 | 0 [illegible] | | 0 [illegible] | [illegible] | |

EMPLOYEE'S social security number ▷ 100 - 18 - 7297

FRANK EISENHAUER
100 PUHA RD

Type or print EMPLOYEE'S name and address (including ZIP code) above.

| Name of State | State Form No. | State income tax withheld |
|---|---|---|
| | [illegible] | 0 [illegible] |
| Name of City | City Form No. | City income tax withheld |
| [illegible] | [illegible] | 0 [illegible] |

*Excludable sick pay. **Gross wages for State if different from Federal.
† Includes tips reported by employee. Amount is before payroll deductions or sick pay exclusion.
‡ Add this item to wages in figuring the amount to be reported as wages and salaries on your income tax return.
* One-eighth of this amount was withheld to finance the cost of Hospital Insurance Benefits. The remainder is for old-age, survivors, and disability insurance.
* Includes tips reported by employee

Uncollected Employee Tax on Tips . . . $

Type or print EMPLOYEE'S name and address (including ZIP code) above.

Form W-2 U.S. Treasury Department, Internal Revenue Service

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WAGE AND TAX STATEMENT — 1969

Copy B—To be filed with employee's FEDERAL tax return

| INCOME TAX INFORMATION | | | SOCIAL SECURITY INFORMATION | | STATE OR MUNICIPAL INFORMATION | |
|---|---|---|---|---|---|---|
| Federal income tax withheld | Wages paid subject to withholding in 1969 | Other compensation paid in 1969 | F.I.C.A. employee tax withheld 3 | Total F.I.C.A. wages paid in 1969 4 | New York State Tax Withheld | New York City Tax Withheld |
| - | 03.00 | | 0.07 | 99.00 | | |

Type or print EMPLOYEE'S social security number, name and address below

Frank Eisenhauer 080-18-7297
100 Puha Road
S. Plainfield, New Jersey 07080

| Check if Wages Vary | No. of Withholding Exemptions |
|---|---|
| | |

Type or Print EMPLOYER'S identification number, name and address

PETER DUCHIN ORCHESTRAS, INC.
96 HARVEY GINSBURG
11 EAST 42ND STREET
NEW YORK, N.Y. 10036

1 Includes tips reported by employee. Amount is before Payroll deductions or sick pay exclusion.
2 Add this item to wages in figuring the amount to be reported as wages and salaries on your income tax return.
3 One-eighth of this amount was withheld to finance the cost of Hospital Insurance Benefits. The remainder is for old-age, survivors, and disability insurance.
4 Includes tips reported by employee.
Uncollected Employee Tax on Tips - $

EXHIBIT NO. 36 (Page 11 of 13)

222

GULTON INDUSTRIES, INC.
212 DURHAM AVE.
METUCHEN, NJ. 08840
221-00-0[illegible]

WAGE AND TAX STATEMENT 1969

Copy B—To be filed with employee's tax return

Type or print EMPLOYER'S identification number, name and address above

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 2753.94 | 10084.80 | | 374.00 | 7000.00 | | | |

Type or print EMPLOYEE'S social security number 180 18 7297

EISENHAUER

DO PUBA RD.

PLAINFIELD, N. J. 7033

Type or print EMPLOYEE'S name and address (including ZIP code) above

---

WAGE AND TAX STATEMENT 1969

ALPIN 34, INC. 13-2613050

Copy B—To be filed with employee's tax return

Y & 34TH STREET
ORK, N.Y. 10001

Employer's State Identification Number 05 1369

Print EMPLOYER'S Federal identification number, name and address above

| 1 FEDERAL INCOME TAX INFORMATION | | | SOCIAL SECURITY INFORMATION | | STATE OR MUNICIPAL INFORMATION | |
|---|---|---|---|---|---|---|
| Income tax withheld | Wages paid subject to withholding in 1969 | Other compensation paid in 1969 | F.I.C.A. employee tax withheld | Total F.I.C.A. wages paid in 1969 | State income tax withheld | City tax withheld |
| 233.86 | 2594.00 | | 124.56 | 2594.00 | 36.76 | 4.42 |

EMPLOYEE'S social security no., name, and address including ZIP below

180-18-7297

EISENHAUER FRANCIS NON RES
100 PUBA RD
PLAINFIELD NJ

| No. of Deposits | | Name of State | State Form No. |
|---|---|---|---|
| 6 | 2 | NEW YORK | IT-2102 |
| | | Name of City | City Form No. |

| Gross wages for State if different from Federal | ENTER STATE PAYMENTS TO NON-RESIDENTS | Employee's number |
|---|---|---|
| NO | | 24085 |

Uncollected employee tax on tips

Form W-2 U.S. Treasury Department Internal Revenue Service APP. I.R.S. 12-6-68 22-1766474

BEST COPY OBTAINABLE

EMPLOYER: Instructions on Back of Copy D WAGE AND TAX STATEMENT Copy A—For Internal Revenue Service 1969

| INCOME TAX INFORMATION | | | SOCIAL SECURITY INFORMATION | | STATE OR MUNICIPAL INFORMATION | |
|---|---|---|---|---|---|---|
| Federal income tax withheld | Wages paid subject to withholding in 1969 | Other compensation paid in 1969 | F.I.C.A. employee tax withheld | Total F.I.C.A. wages paid in 1969 | State tax withheld | City tax withheld |
| 37.18 | 795.00 | | 36.72 | 795.00 | 1.38 | |

Type or print EMPLOYEE'S social security number, name and address below

Eisenhauer, Francis
100 Puba Rd.
South Plainfield New Jersey 08840

S.S.#130-18-7297

13-1577981

Longchamps Inc.
230 Park Ave.
N.Y. N.Y.

Type or print EMPLOYER'S name and address

| State or Ter. Wage Code 1969 | No. of Deposits | ** | Name of State or City |
|---|---|---|---|
| NJ | 6 | | |

* See Circ. E for sick pay reporting. **Gross wages for State if different from Federal.
1 Includes tips reported by employee. Amount is before [illegible] sick pay exclusion.
2 Report salary or other employee compensation which was not subject to withholding. See Circular E, Employer's Tax Guide, Circular A.
3 Indicate if this amount was withheld to cover the cost of hospital insurance benefits. The remainder is for disability insurance.
4 Includes tips reported by employee.
Uncollected Employee Tax on Tips - $

Form W-2 U.S. Treasury Department App. IRS 1-69

EXHIBIT NO. 36 (Page 12 of 13)

Collected 22 Oct 4

Form 1040 Combined with Form 1040A — US Department of the Treasury / Internal Revenue Service — Individual Income Tax Return — 1969

For the year January 1–December 31, 1969, or other taxable year beginning ____ 1969, ending ____ 19____

Please print or type

Use the label. Otherwise, please print.

Your first name and initial (if joint return, also wife's name and initial) — Last name — Your social security number

Present home address (Number and street, including apartment number, or rural route) — Your occupation

City, town or post office, State and ZIP code — Spouse's social security number

Spouse's occupation

Name and address of employer at time of filing

Your filing status (Check only one)

1 ☐ Single
2 ☐ Married filing joint return (even if only one had income)
3 ☐ Married filing separate return and spouse is also filing a return. If this item checked give spouse's social security number in space provided above and enter full name here ▷
4 ☐ Unmarried Head of Household
5 ☐ Surviving widow(er) with dependent child
6 ☐ Married filing separate return and spouse is not filing a return

Your Exemptions

Check boxes for exemptions which apply — Regular — 65 or over — Blind — Enter number of boxes checked

7a Yourself ☐ ☐ ☐
7b Spouse (applies only if line 2 or line 6 is checked) ☐ ☐ ☐
8 First names of your dependent children who lived with you

Enter number ▶

| (a) Name | (b) Relationship | (c) Months lived in your home (See instructions), 8–12 | (d) Did dependent have income of $750 or more? | (e) Support furnished by you (See instructions) | (f) Support furnished by dependent and others |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |

9 Total exemptions from lines 7, 8, and 8 at right ▶

Your Income

11 Wages, salaries, tips, etc. (Attach Form W-2 to back. If unavailable, explain on back) — 11 — 18084 30

12a Dividends [Total before exclusion] $ ____ [See line 2 and line 12b–1] 12b Less Exclusion $ ____ Balance ▶ — 12c

13 Interest (Enter total here and if over $100, also list in Schedule B, Part II) — 13

14 Other income Total from attached schedules (check which schedules used—C ☐, D ☐, E ☐, F ☐) — 14 — 3964 10

15 Total [of lines 11 thru 14] $22,048 [Adjusted Gross Income] $ 930.20 — 15 — 21,118 20

Your Tax and Surcharge

○ If line 15 is $5,000 or more, go to Schedule T, to figure tax and surcharge. (Omit lines 16 and 17.)
○ Go to Sch. T to figure tax and surcharge if you itemize deductions, or claim retirement income credit, foreign tax credit, or investment credit; or if you owe self-employment tax or tax from recomputing prior year investment credit. (Omit lines 16 and 17.)
○ If neither of above two items applies, go to Tax Tables instead of Sch. T. Complete lines 16, 17, and 18.

16 Tax from Tax Table (see tables on T-2 and T-3) — 16 — 1965 [illegible]
17 Tax surcharge on line 15 (see T-1 for tax surcharge tables) — 17 — 196 [illegible]
18 Enter total of lines 16 and 17 OR amount from Schedule T, line 13, if applicable (check if from Tax Table A ☐, B ☐, C ☐, Sch. ☐, Sch. ☐, or Sch. G ☐) — 18 — 2161 [illegible]

Your Credits

19 Total Federal income tax withheld (attach Forms W-2 to back) — 19 — 2000 [illegible]
20 Excess F.I.C.A. tax withheld (two or more employers; see inst. R-2) — 20 — 182 40
21 ☐ Nonhighway Federal gasoline tax, Form 4136; ☐ Rail. lab., Form 2439 — 21 — [illegible]
22 1969 Estimated tax payments (Include 1969 overpayment credited as a credit) — 22 — 12 51 [illegible]
23 Total (add lines 19, 20, 21, and 22) — 23

Balance Due or Refund

24 If line 18 is larger than line 23, enter BALANCE DUE (Make check payable to "Internal Revenue Service") — 24 — [illegible]
25 If line 23 is larger than line 18, enter OVERPAYMENT — 25 — 1090 26
26 Line 25 to be (a) Credited on 1970 estimated tax ▶ [illegible] (b) Refunded ▶ 1040 26

Sign here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Your signature: Francis E. Eisenhauer — Date: May 22, 1970

Signature of preparer other than taxpayer, based on all information of which he has any knowledge — Date

Address

BEST COPY OBTAINABLE

EXHIBIT NO. 36 (Page 3 of 13)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

| | | |
|---|---|---|
| MARIA A. EISENHAUER, on her own behalf and on behalf of her children, FRANCIS X. EISENHAUER and BRIAN F. EISENHAUER, | : | |
| Plaintiff, | : | |
| -against- | : | No. 74 C 821 |
| CASPAR WEINBERGER, SECRETARY OF HEALTH, EDUCATION, and WELFARE, | : | May 29, 1975 |
| Defendant. | : | |

MEMORANDUM and ORDER

BRUCHHAUSEN, D. J.

The plaintiff, by Notice of Motion, dated January 10, 1975, applied for summary judgment:

1. Reversing and annulling the decision of the defendant, granting Social Security Child's Insurance Benefits to the children of Andreas and Sonja Radauscher and reducing the amount of Social Security benefits received by the plaintiff and her two children, and

2. Remanding this matter to the defendant for

determination of the paternity of the child, Francis E. Eisenhauer.

The defendant, by Notice of Motion, dated March 13, 1975, cross-moved for summary judgment.

THE ISSUE PRESENTED

Whether the defendant's decision that plaintiff's insurance benefits must be reduced because of the eligibility of Sonja (Radauscher) Eisenhauer's seven children for child's insurance benefits is a correct application of the Social Security Act and is supported by substantial evidence.

The Appeals Council on request for review affirmed the decision of the Administrative Law Judge.

THE FOLLING MATERIAL FACTS ARE NOT DISPUTED. THEY WERE STIPULATED BY THE PLAINTIFF's ATTORNEY

1. The plaintiff married Francis E. Eisenhauer, the wage earner, on January 13, 1951.

2. Of the marriage there were born Francis X. Eisenhauer on October 5, 1958 and Brian F. Eisenhauer on January 13, 1955.

3. On September 7, 1965, the plaintiff and the

wage earner separated and thereafter did not live together.

4. Subsequent to September 7, 1965, the wage earner and Sonja Radauscher began living together. Sonja fixes the date that she and the wage earner began living together as April 1, 1966.

5. On June 29, 1957, Sonja married Andreas Radauscher and that marriage terminated by means of a divorce on March 7, 1966.

6. As a result of the marriage between Sonja and Andreas Radauscher there were four children, i.e. Monika, born June 30, 1958, Andreas, born November 7, 1959, Erich, born February 15, 1961 and Wilhelm, born on June 2, 1964.

7. During the period in which Sonja and the wage earner lived together there were born three children, i.e. Francis E. born on July 27, 1966, Sonja L. born on February 26, 1969 and Ursula M. born on April 12, 1970.

8. The children, Sonja L. and Ursula M. are the children of Sonja and the wage earner and Sonja was the mother of Francis E.

9. On August 14, 1969, Sonja and the wage earner

obtained a marriage license and went through a ceremonial marriage.

10. On June 9, 1970, the wage earner died, while temporarily in the State of Rhode Island in connection with his business.

Attached to and made a part of the wage earner's 1969 Federal Income Tax Return are seven $W^2$ forms, each of them indicating his address as 100 Puha Road, Plainfield, N.J., the home owned by Sonja.

Exhibit 21, the Certificate of Birth Registration of Francis Eugene Eisenhauer, states that he was born on July 27, 1966 at Port Jefferson, N.Y., the son of Francis Eugene Eisenhauer and Sonja Susanna Jongebloed, his mother.

The wage earner's death certificate showed his address to be Puha Road (Tr. 118) until changed by court order on June 17, 1971 (Tr. 212) to reflect an address in Queens, New York.

The representative of the district office who investigated Sonja's claim for her three youngest children concluded that "all facts in the file establish that the wage earner was living with or supporting and fathering

the children (Tr. 179).

The Administrative Law Judge concluded that the wage earner was living with Sonja and her seven children at the time of his death.

Applying the applicable statutes to the facts in this case convinces this Court that the rulings of the Administrative Law Judge were correct. See 42 U.S.C. Sections 202(d)(1); 202(d)(4); 203(a); 216(e); 216(h); 402(d)(1); 402(d)(4); 402(a); 416(e)(1) and 416(h).

This Court concurs with the Findings of Fact and the Decision of the Administrative Law Judge, reported at pages 28 and 29 of the transcript.

Upon due deliberation, it is ordered that the above entitled action be and it is hereby dismissed and it is

Further ordered that the plaintiff's motion be and it is hereby denied.

Copies hereof will be forwarded to the attorneys for the parties.

Walter Bruchhausen
Senior U. S. D. J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - - - - - x

MARIA A. EISENHAUER, on her own behalf and on behalf of her children, FRANCIS X. EISENHAUER and BRIAN F. EISENHAUER,

Plaintiff,

-against-

CASPAR WEINBERGER, Secretary of the Department of Health, Education and Welfare,

Defendant.

- - - - - - - - - - - - - - - - - - - - - - x

Civil Action
No. 74 C 821

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that MARIA A. EISENHAUER, on her own behalf and on behalf of her children, FRANCIS X. EISENHAUER and BRIAN F. EISENHAUER, plaintiff above-named, hereby appeals to the United States Court of Appeals for the Second Circuit from the judgment of the Hon. Lewis Orgel, Clerk of the Eastern District of New York, entered on the 3rd day of June, 1975, dismissing the action upon the memorandum and order of the Hon. Walter Bruchhausen, United States District Judge.

Dated: June 4, 1975
New York, New York

TO: DAVID G. TRAGER
U.S. Attorney
225 Cadman Plaza East
Brooklyn, New York
Attorney for Defendant

Philip M. Gassel

JONATHAN A. WEISS
PHILIP M. GASSEL
Legal Services for the Elderly Poor
2095 Broadway, Room 304
New York, New York 10023
(212) 595-1340
Attorneys for Plaintiff

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

---

MARIA EISENHAUER, on her own behalf and on behalf of her children, FRANCIS X. EISENHAUER and BRIAN F. EISENHAUER,

Plaintiff-Appellant,

-against-

CASPAR WEINBERGER, individually and in his capacity as Secretary of the Department of Health, Education and Welfare,

Defendant-Appellee.

AFFIDAVIT OF SERVICE BY MAIL
Docket No. 75-6047

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STATE OF NEW YORK )
ss.:
COUNTY OF NEW YORK)

ELIZABETH MELENDEZ, being duly sworn, deposes and says:

Deponent is not a party to the above action, is over 18 years of age and resides at 3 Haven Plaza, New York, NY.

That on the 28 day of August, 1975, deponent served the within JOINT APPENDIX upon David G. Trager, U.S. Attorney, 225 Cadman Plaza East, Brooklyn, NY, the address designated by said attorney(s) for that purpose by depositing a true copy of same in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York.

Elizabeth Melendez

Sworn to before me this
28 day of August, 1975.

Philip M Gassel

NOTARY PUBLIC

PHILIP M. GASSEL
NOTARY PUBLIC, STATE of NEW YORK
No. 31-0023006
QUALIFIED in NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 197 6